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Hon C. P. McTaggart

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

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Page 22187 missing

I N D E X

Page No.

SAUNDERS, W.B.

Cross-examination

By Mr. Sinclair (resumed) 22171

By Mr. McDonald 22232

By The Commission

Mr. Gobeil 22244

Mr. Anscomb 22252

Mr. Mann 22257

Re-examination

By Mr. MacKimmie 22266

NO EXHIBITS IN THIS VOLUME



ANGUS, STONEHOUSE & CO. LTD.
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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Assembly Hall, 90 Parent
Street, Ottawa, Ontario, on the
11th day of January, 1961.

---O---

COMMISSION

Mr. M.A. MacPherson	Chairman
Mr. H. Anscomb	Member
Mr. A.H. Balch	Member
Mr. R. Gobeil	Member
Mr. H.A. Mann	Member
Mr. A. Platt	Member

COMMISSION COUNSEL

Mr. A.G. Cooper, Q.C.
Mr. G.S. Cumming

Mr. F.W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary

---O---



Ottawa, Ontario,
Wednesday, January 11, 1961.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

MR. SINCLAIR, Q: One of the other areas, and I think the only one we have to discuss, Mr. Saunders, in which you felt that another look should be made by Canadian Pacific, if I may put it that way, was in respect of car days: development of car days in the grain cost study?

A. Yes, sir.

Q. And at page 50 of your submission, you say in the first paragraph:

"For reasons not explained, the most obvious method, that of reworking the original active day cycle sample to include the idle days, and supplementing this with additives for back shop repair days, was not followed."

Your suggestion is that the 3700 car sample on Canadian Pacific used to develop the active car days should be the basic sample used for the development of car days chargeable to the grain traffic moving to export positions in western Canada?

A. Yes, sir.

Q. Mr. Saunders, you and your staff received substantial data on car days and the traffic pattern flows over all of Canadian Pacific: charts demonstrating pattern flows by months. You remember those charts -- figures?



1
2 A. I do not know what you have in mind.

3 Q. Well, what I have in mind is that on
4 the Canadian Pacific, Mr. Saunders, there is a pattern
5 movement for grain that has in it peaking that coincides
6 with general boxcar traffic peaking. Do you not recall
7 this material?

8 A. We got some monthly figures on loadings.
9 I do not recall anything about charts, but we did get
10 some monthly figures.

11 And, I am advised that we did have some charts,
12 too. I do not recall specifically about the charts.

13 Q. Well, in this 3700 car sample that Canadian
14 Pacific used to develop the active cars days because of
15 peaking in May, June and July a greater number of the
16 cars in the sample was taken from that period so that
17 the sample would be representative of the movement of
18 grain over the year. Do you recall that?

19 A. I do not recall it, but I will accept that.
20 It sounds reasonable.

21 Q. And in view of this, this is a proper
22 way of developing a sample, you would agree, where you
23 have a peaking to reflect that peaking in the sample?

24 A. Well, I do not recall the details of that,
25 but certainly if you are going to get a representative
26 sample you have to allow for selection that will provide
27 a fair representation of peak periods. But I do not
28 recall the mechanics of that particular operation.

29 Q. Now, if Canadian Pacific had done, as
30 you suggest they might have done, used the 3700 car



1 samples to develop idle time as well as active car
2 days, it would result, I suggest, in grain not being
3 charged with idle time which it is necessary to build
4 into the Canadian Pacific boxcar fleet to take care of
5 this peaking of the grain movement. Would you agree?

6 A. No, I do not understand why that would
7 be.

8 Q. Well, Mr. Saunders, where you have, as
9 there is on Canadian Pacific, a peaking of the study
10 traffic on a peak of other boxcar traffic, it is
11 necessary to maintain a fleet to look after with
12 reasonable dispatch the peaks of grain that has a
13 greater idle time because of that very fact? You
14 would agree?

15 A. Well, to the extent that that happens
16 -- I do not see what that has to do with how you draw
17 your sample. I think you can draw your sample and
18 study the active and idle times just as you have
19 described was done in the first instance with the active
20 study. Allowances were made for a disproportionate
21 share of the grain traffic moving in certain months.
22 It is possible to do that with the active and the idle
23 time.

24 Q. I suggest to you what you do in
25 developing active car days is to develop a sample and
26 it was done by Canadian Pacific by taking into account
27 this peaking on the cycle through empty, through
28 load, through empty, and that being the method followed
29 of developing the cycle you have to consider storage
30 time exclusive of that cycle when you come to develop



1 idle car days chargeable to the study traffic; and
2 that is why you cannot use the 3700 car sample to
3 develop your idle days?

4 A. I just don't see how that has anything
5 to do with the practical problem of measurement.

6 Q. Well, my suggestion to you is because
7 of the way grain moves on Canadian Pacific it is
8 necessary to make a special study for idle time outside
9 of the 3700 car sample that was used to develop
10 active time?

11 A. Well, that may be so. I am not, certainly,
12 at all willing to agree that that has to be done, but
13 you did it, and if you are going to do it from a
14 separate sample it still is a matter of whether you
15 use the same definitions, the same concepts, as you
16 used in the first study.

17 I think it is simpler to stick with the
18 first sample and just add to this seasonal differences.
19 I think it is safer, and I think you come out with
20 a more accurate result than if you take a different
21 approach and then try to blend the two studies
22 together.

23 Q. Mr. Saunders, in the Southern Governors'
24 Grain Case, where you made an intensive study, what
25 method of treatment did you use to arrive at car
26 day costs?

27 A. I really do not remember.

28 Q. You used the rail form A method; didn't
29 you?

30 A. I have a vague recollection, now, that



1 we did something about the times at transit points --
2 we made some special studies at transit. I am a little
3 hazy, now, just what we did.

4 Q. Let me put it this way, Mr. Saunders.
5 Cost analysts consider, many of them, that the rail
6 form A procedure for developing car days attributable
7 to the movement of a commodity and to arrive at the
8 cost associated with car days is a reasonably sound
9 method to follow?

10 A. Well, we just shattered this yesterday,
11 and you are going to have me put it together again, it
12 sounds like. It depends how you use it. If you
13 use it within its limitations there is no danger in it.

14 Q. I say it is a reasonably sound method,
15 in the light of many cost analysts' view to arrive
16 at costs and it is used by them in decision making?

17 A. I think it is important to understand
18 the distinction between what you are saying and what
19 I am saying. It is not something you use and that is
20 the end of it. You use it if you feel it is adequate
21 for the particular problems you are studying. If it
22 is not adequate, then you should not use it.

23 Q. Mr. Saunders, up until three or four
24 years ago, we will say, before any of the cost analysts
25 appearing before the ICC had ever turned their mind
26 to multiple regression, and before they turned their
27 mind to cost analysis, are you suggesting that they
28 could not or should not have made definitive statements
29 regarding costs on some of the cases that they had?

30 A. I think you do the best you can in terms



1 as it is
of the study of the yard/at the time you are doing it.

2 I am sure there were aeroplane engineers in 1925 who
3 were making decisions about what is the only proper
4 way to fly an aeroplane that today would have a different
5 view of it.

6 Q. I suggest to you that what they were
7 suggesting was that this is a reasonable method to
8 arrive at cost on which to base their decision making?

9 A. It is the best one available.

10 Q. And it is the best one on which to make
11 a decision?

12 A. Yes, you do the best you can. These
13 poor analysts you are talking about -- and I am one of
14 them -- could not get any further than they could get
15 by convincing the management of the railroads that it
16 was worth the effort to make these studies and it
17 happens that Canadian Pacific has an enlightened point
18 of view with respect to cost analyst --- and Canadian
19 National, also -- and they have done great progressive
20 things in this field, and they are to be commended for
21 that, but the fact that other managements did not see
22 fit to do the research does not make the analyst
23 inadequate or ineffective, except as a salesman; he
24 did not sell the idea very well.

25 Q. Now, there is one point in this car
26 day treatment, Mr. Saunders, that you were critical
27 of the way Canadian Pacific handled it, and that was
28 the per diem credits which ^{are} received by Canadian Pacific
29 when its boxcars are on American railroads because
30 they move into that country under load and are being



1 used there for transportation; correct?

2 A. Yes, sir.

3 Q. Now, the per diem charge, or what is
4 known as the per diem rate, is developed by cost
5 study on American railroads by the AAR and approved
6 by the ICC; correct?

7 A. Well, you have tied it together in an
8 odd way. The AAR certainly makes studies and submits
9 them, and the ICC certainly decides what it is going
10 to do. It does not necessarily approve the AAR study.
11 I do not think it did in this last case. There were
12 some modifications in it.

13 You are being careful in phrasing the question.
14 I just want to be sure we do not have a misunderstanding
15 later.

16 Q. What happens is the various developments
17 are developed by the AAR and developed into a cost
18 presentation which is made to the Interstate Commerce
19 Commission which checks it out and exercises its
20 judgment and fixes the rate?

21 A. That is right.

22 Q. By the way, that rate is what rate now?
23 Do you remember? 2.88 for boxcars? 2.88; 2.85?
24 I am trying to figure what the last one was. 2.78 to
25 2.88?

26 A. 2.75, I think, originally. Then, it
27 went to 2.88

28 Q. Yes. And a very short while ago it was
29 2.40? Do you remember that?

30 A. Yes.



1 Q. It was lower than that -- 2.20 -- do
2 you remember -- a few years back?

3 A. Like many things, it was well below
4 that at one point -- it was a dollar a day.

5 Q. The point is that as the costs have
6 changed the rate increased?

7 A. Well, that is certainly one of the
8 considerations; there is no question about that. The
9 timing of the rate change is not exactly an automatic
10 thing, though.

11 Q. No, but as the costs change the railroads
12 and the AAR make their presentation to the ICC to
13 get a higher per diem charge based on a higher cost
14 involved -- investment and repairs and matters of that
15 kind?

16 A. That is right.

17 Q. Now, one of the elements in the charge
18 or rate per diem is an allowance for shopping time?

19 A. Yes, sir.

20 Q. And that is an allowance to the owning
21 line that when the car comes back to the owning line
22 and it places the car in its shop for repair, it
23 will have received an allowance for that amount while
24 the car is off line; correct?

25 A. I do not know what you mean -- what you
26 mean by: "While the car is off line"?

27 Q. While the car is in transportation
28 service off the owning line, it develops the necessity
29 in the normal circumstances of going into the shop
30 after so many miles and times have run out?



1 A. Yes, sir.

2 Q. And, so, in the rate they allow for
3 that back-shopping when the car returns to the owning
4 line?

5 A. Well, if you are saying that the rate
6 includes a certain percentage of allowance for idle
7 time due to repairs and that that in effect is
8 charged -- the mechanics of it is charged against every
9 active day on a little piece each time, well, yes,
10 that is exactly the theory of it.

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2 Q. Now, Mr. Saunders, the use of Canadian
3 Pacific cars in the United States is a function of
4 railroad operation and this must be recognized as an
5 outcome of the function of transportation.

6 A. That is right.

7 Q. You are not suggesting to this
8 Commission that the Canadian Pacific buys cars so as to
9 let them go to the United States and earn per diem, are
10 you? You would not do that?

11 A. No, I did not realize there was any
12 implication of that. I do not know how we got there
13 because that is a pretty big leap from what we have been
14 talking about.

15 Q. I do not think so because in the handling
16 of grain at times in western Canada there has been a
17 suggestion that Canadian Pacific should have more cars
18 so the quota could be raised and, "What are they buying
19 cars for and sending them to the United States". You
20 do not know this situation?

21 A. Well, I have read a few things about
22 the problem.

23 Q. You have never heard people saying
24 about the C.P. "Why don't you get a bigger boxcar
25 fleet so we can get our quota at four instead of three
26 bushels per car?"

27 A. They say that in the United States too.

28 Q. Are they under centralized quotas in
29 the United States as well as in Canada?

30 A. Not in that way but there is always



1
2 a pressure on the railroad when harvest time comes around
3 and someone has a delay in loading and it is a big hue
4 and cry about the inadequacy of the car supply.

5 Q. Did you ever have the advantage of
6 reading the discussions before the parliamentary
7 committee here on boxcar distribution for grain when
8 certain people appeared as witnesses three or four years
9 ago?

10 A. That privilege has been denied me.

11 MR. MacKIMMIE: For which I am very grateful.

12 MR. SINCLAIR: Q. Now, Mr. Saunders, the
13 per diem rate applicable to Canadian Pacific cars while
14 being on American roads is also collected by Canadian
15 Pacific on the same basis when American cars are on
16 Canadian Pacific roads.

17 A. Yes, sir.

18 Q. And this I.C.C.A.A.R. combination to
19 fix a rate is also a function of the Canadian lines as
20 they have to have the per diem rate approved by their
21 regulatory tribunal, the B.T.C. Do you know this?

22 A. I do not know what you mean by the
23 function of the Canadian lines.

24 Q. The Canadian lines are interested in
25 per diem?

26 A. Yes, sir.

27 Q. And the rate of per diem 2.88 is
28 applicable on cars in Canada just as it is applicable
29 on cars in the United States?

30 A. Yes, sir.



1
2 Q. The point I am making now is that this
3 is not something extraneous to the interest of a line
4 like Canadian Pacific?

5 A. Yes, sir.

6 Q. I just want to make sure that you
7 understand that Canadian Pacific and the regulatory
8 tribunal in Canada have the part in fixing the per diem
9 rate; it is not something that is imposed on them from
10 abroad.

11 A. Well, I did not understand they have
12 a part in fixing the per diem rate. It seems to me there
13 are two separate things going on and they come up with
14 the same answer. There are two rates, one approved by
15 the I.C.C. and there may be a rate approved by the Board
16 of Transport Commissioners which may coincide.

17 Q. And they do coincide, we have agreed.

18 A. Yes, I am indicating there are two
19 separate things, that is all, that is what I was trying
20 to establish.

21 Q. At page 55 of your volume 2 you state
22 that to the extent that idle days represent storage days:

23 "It would be more meaningful to relate
24 cost of idle car days to the number of car
25 loadings rather than the number of active
26 car days."

27 In Canada, Canadian Pacific has statutory
28 obligations which it must meet in relation to this boxcar
29 fleet, did you know that.

30 A. Well, I only know about the grain



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2 features of it, the power of the Wheat Board in seeing
3 to it that the grain is moved.

4 Q. And of the Board of Transport
5 Commissioners having special permission with regard
6 to grain cars, that is one point. There is also the
7 statutory obligation with respect to traffic generally
8 in Canada and --

9 A. I am not sure I understand what you
10 mean by that.

11 Q. For instance, under our Railway Act,
12 Section 315, there is a statutory obligation on Canadian
13 Pacific to provide:

14 "Adequate and suitable accommodation for
15 the receiving and loading of all traffic
16 offered for carriage upon the railway."

17 And further on in the same section:

18 "The obligation of the company is to
19 furnish adequate and suitable accommodation
20 for the carrying and loading and delivering
21 of all such traffic."

22 Then there is this important additional
23 obligation:

24 "Without delay and with due care and
25 diligence receive, carry and deliver all
26 such traffic."

27 COMMISSIONER MANN: Always with the little
28 proviso that says "According to its power".

29 MR. SINCLAIR: Well, "According to its
30 power" is another way of saying "In accordance with the



1
2 financial resources of the company". In other words,
3 it does say there that you cannot, because of some
4 extraneous situation --

5 COMMISSIONER MANN: Whatever the Board
6 has interpreted that to be.

7 MR. SINCLAIR: Yes, but are you suggesting
8 that Canadian Pacific could say "We do not like having
9 such a large fleet of cars because we cannot use them all
10 the year around" so, therefore, moving them without
11 delay and due care and diligence would enable us to say
12 we have an even flow of traffic throughout the year."

13 COMMISSIONER MANN: I am not suggesting
14 anything, I merely drew your attention to the "according
15 to its power" which is subject to interpretation by the
16 Board.

17 MR. SINCLAIR: I was hoping we had overlooked
18 something that you had in mind that could make it
19 necessary that we could say "We are above our quota, we
20 have a plan here for moving this traffic".

21 COMMISSIONER MANN: Oh, no.

22 MR. SINCLAIR: Is it implicit in your
23 suggestion that that may be something we should follow
24 through.

25 COMMISSIONER MANN: You will find out
26 about my suggestion in due course.

27 MR. SINCLAIR: I was wondering if I might
28 not explore this with the witness that if we had an
29 overall plan in accordance with the use of cars and we
30 could force people to fit within that plan no matter what



1
2 effect it had on them, that could reduce the unit cost
3 of handling grain.

4 A. Is that a question for me?

5 Q. Yes.

6 A. Well, it sounded as though it may have
7 been a little facetious. If everything moved carefully
8 and according to a nice package you would probably have
9 less cost than you do today.

10 Q. The point I have in mind is this, that
11 in dealing with practical business problems in the
12 transportation industry we are no different than any other
13 industry and that is we should not overlook the fact
14 that planning, economic planning has to be kept within
15 the realism of people and their wants.

16 A. Yes, I refer to it as far as car
17 travelling is concerned, I call it frictional
18 unemployment of freight cars. You have to have a certain
19 amount of idle time.

20 Q. I was very interested in that phrase
21 and I think it is a very descriptive one and I will be
22 very happy to have that added to our vocabulary. By
23 the very nature of commerce in Canada particularly in
24 regard to its cereal grain production in the west, cars
25 that are needed to move traffic offered to the railways,
26 with reasonable delay means a portion of the boxcar fleet
27 must be stored for part of the year.

28 A. I think I heard you quoting something
29 from the act and I do not want to be in a position of
30 interpreting that legislative description. Generally,



1
2 leaving aside the principle which I think you did use,
3 which I just heard --

4 Q. I will not ask you to interpret the
5 Act.

6 A. But leaving aside that legal point,
7 there is no question that some extra car supply is
8 required in order to take care of what I have referred
9 to as frictional unemployment. The difference is in
10 demand be it day of the week or season of the year.

11 Q. And this storage time, Mr. Saunders,
12 is a part of the idle car days which must be charged
13 to the various segments of traffic over the railway.

14 A. Yes, sir, I have so indicated.

15 Q. Idle time is also caused when cars
16 are in shops for repair and repairing of boxcars is a
17 normal and necessary function of a railway transportation
18 service.

19 A. Yes, sir.

20 Q. And idle time of the cars arising from
21 shopping for repairs is a cost, you will agree, will
22 you, that has to be charged as variable?

23 A. Not entirely.

24 Q. The idle time arising from shopping
25 and repairs.

26 A. Well, it is no more variable than
27 the thing which caused the repairs, you see.

28 Q. Are you suggesting that repairs on the
29 cars are in some way constant?

30 A. I am suggesting that while we have not



1

2 That is like saying the railway is variable with traffic
3 because you need a railway to handle traffic. I think
4 the better form of the question is -- I do not mind you
5 asking me the wrong question but from an analytical point
6 of view the better form of the question is, to what
7 extent will the car supply respond to changes in traffic.
8 You start with a certain amount of car supply then add
9 or subtract traffic while I add your cost and that
10 determines the degree of variability in the car supply.

11 Q. I am going to suggest to you that with
12 the amount of retirements and mishaps, as we call them
13 in the railway, to the boxcar fleet that a commitment
14 committee in conjunction with the research forecast
15 that the number of cars in the fleet is a very easily
16 controlled item.

17 A. Yes, sir.

18 Q. And that whatever may be done on some
19 railways, I suggest to you from what you have seen in
20 the Canadian Pacific and the way the operation takes
21 place, I suggest to you there is a variability on boxcars
22 with traffic volume.

23 A. I am quite satisfied that C.P. is a
24 very efficient railroad, and I have a very high opinion
25 of its operating people and its traffic and accounting
26 and research people. I consider that this is one of the
27 best managed properties --

28 THE CHAIRMAN: And legal.

29 MR. SINCLAIR: Q. They are not people.

30 A. I consider them a very well managed



1
2 property and there is no question about this point of
3 having people control expenditures but when you ask
4 whether these costs are 100% variable with traffic then
5 I have to say I have not studied that point. I am
6 merely qualifying your general observation which is in
7 the zone of consideration but I just have not really
8 studied that point and come to a conclusion on it.

9 Q. Now, in the United States cost finding
10 procedures idle time is developed as a ratio of active
11 time, I suggest. Do you agree?

12 A. Well, when you say in the United
13 States you mean in the rail form A procedures --

14 Q. And the cost studies, they use that as
15 a base.

16 A. Yes sir, that is a correct statement.

17 Q. And relating idle time to active time
18 for moving grain to export positions in western Canada
19 was the basic procedure in the method of the Canadian
20 Pacific.

21 A. Yes sir, it was just pyramided and
22 that was our only -- the core of our suggestion.

23 Q. What you are suggesting is that you
24 do not look to where the 300 day car sample for idle
25 days was developed.

26 A. No, not entirely. My concern with it
27 was partly this matter of definition and the lack of
28 linkage between the little sample and the big sample so
29 they did not have the same definitions. The other
30 objection was that the percentage took a -- by a



1
2 percentage additive on traffic which already had a very
3 large number of days assigned to it, you had, as I
4 recall, 27 days on traffic to Vancouver and this in itself
5 has built into it a considerable amount of what I would
6 think of as under employed time. Merely adding a
7 percentage for general idle time on top of that seemed
8 a little harsh with that traffic.

9 Q. Well, Mr. Saunders, in this procedure
10 that you have suggested of relating idle days to car
11 loading, this would eliminate a length of haul factor
12 in the idle day ratios?

13 A. Yes, sir.

14 Q. Is it your suggestion to this Commission
15 that length of haul factor can be ignored in developing
16 these car ratios?

17 A. Well, I would not advance that as a
18 general proposition that simply but it does happen in
19 this study due to the nature of car traffic that you
20 have built in in the nature of the operation a
21 considerable number of switching days and those switching
22 days are apparently the result of the requirements of
23 the export business and apparently a matter of the
24 convenience of the railway and the way it advances the
25 traffic.



1 Q. And partly the result of other things
2 such as the use of cars at terminals, I suggest?

3 A. Yes, sir; but all of these things are
4 in what you have treated as active days, and I don't
5 deny they are active in a specific sense, but if you
6 were to compare that with some other traffic, let
7 us say a piggy-back shipment making the same haul, or
8 possibly a car of steel or some other commodity, where
9 there was a different sense of urgency about the
10 handling, I think you would find that for the same
11 haul you would have a considerably smaller number of
12 active days and you would be charging under your
13 method a very small number of idle days to that
14 shipment, and yet, realistically, both shipments ought
15 to bear fairly similar burdens of idle time.

16 Q. Well, I suggest to you if the Canadian
17 Pacific could have its cars in grain service to
18 export positions moving as it moves its cars in piggy-
19 back service, this would indeed be a happy day, and
20 so I suggest to you that because of very particular
21 circumstances...

22 A. I appreciate that.

23 Q. ... in regard to this grain traffic to
24 export positions in western Canada that pertains to
25 no other traffic, matters of comparison such as you
26 have made of idle time, length of haul, ratios of piggy-
27 back traffic, are not meaningful?

28 A. Well, I used it to illustrate the
29 fact that under a simple percentage method you tend
30 to add a great many days to a car which has already



1 a great number of days assigned to it, and I am not
2 sure I would feel that was an equitable distribution
3 as compared with other traffic having the same length
4 of haul.

5 Q. Well, Mr. Saunders, here again the
6 traffic pattern of Canadian Pacific and the peaking
7 has to be considered, I suggest?

8 A. Yes, sir.

9 Q. Have you ever done a study where you
10 have calculated idle time based on loadings in any
11 of your railway cost studies?

12 A. At various times, and I think perhaps
13 most recently in this very grain case that you have
14 asked me about previously. We have tried to make
15 a separation of the car costs between what we call
16 those chargeable to originating as against those
17 chargeable to terminating traffic. We try to get
18 at this sort of question, and we have tried to evaluate
19 the burden on the origin line which is to have a car
20 supply and to provide a clean, useable, repaired,
21 effective car, and we have apportioned a different
22 number of days per car, and, as I recall it, it may
23 have been as much as seven days difference -- no,
24 that can't be right. We have apportioned a larger
25 share to the originating road than to the terminating
26 road on a per day basis.

27 Q. What I am suggesting to you is that I
28 know you have had this problem of origin roads and
29 destination roads, particularly in the United States,
30 but that is a special problem. My question directed



1 to you is, in developing the cost of moving a commodity
2 had you developed your car days based on a relationship
3 of developing idle days in relation to loadings rather
4 than in relation to active car days?

5 A. My answer is that we did calculate it
6 per car loaded per origination in this illustration.
7 I agree it is a special problem, but that is what we
8 have here to.

9 Q. But that is the way you developed
10 your idle days. Is it your submission to this
11 Commission that idle days in that study were
12 developed by relation to car loadings and not to
13 active car days?

14 A. It is my recollection we put in this
15 allowance for cleaning and repairs and so forth on
16 a per car basis.

17 Q. You made a special allowance, are you
18 suggesting, to a basic study, or are you saying you
19 did not make a relationship of idle out of active
20 car days?

21 A. I would have to look at the exhibits to
22 see just what we did there. It is some time back,
23 and we have done so many things since I would not be
24 entirely sure of it. Possibly during the recess
25 I could take a look and refresh my recollection.

26 Q. The normal way to develop it is by
27 relating idle days as a ratio of active days?

28 A. Yes sir, there is no question about
29 that. I would be happy to agree that is the customary
30 standard way. It is a typical method, but typically



1 you are talking about traffic which is active with
2 a turn around time of 12, 13, 14 or 15 days, and
3 there is very little distortion that comes from using
4 the percentage method. It is the same concept as
5 using a percentage for overheads. We do that as
6 a matter of convenience, but it doesn't make it
7 right in all cases.

8 Q. Mr. Saunders, I think we have discussed
9 previously this general matter, but maybe I could
10 summarize it this way: in the railway industry costs
11 are important, and the determination of costs is
12 a matter of interest to many people in the railway
13 industry; you would agree?

14 A. Yes, sir.

15 Q. And while the last step has not been
16 made in the developing of costing methods and
17 procedures, very substantial advances have been made?

18 A. Yes, sir.

19 Q. And particularly have these advances
20 been marked in the last five years?

21 A. Yes, sir.

22 Q. It is my suggestion to you that in
23 this field the Canadian railways are not bringing
24 up the end of the parade of advance?

25 A. I think on the contrary it is my
26 suggestion to you.

27 Q. I will suggest to you that in the
28 costing of traffic the Canadian railways have, maybe,
29 taught the American costing groups some advances that
30 have proved beneficial?



1 A. I think that is stated several times.

2 Q. And ~~that~~ the costing work that has
3 been done and has been presented to the regulatory
4 tribunals and other tribunals in Canada is generally
5 described by cost analysts as work of a high order?

6 A. Yes, sir.

7
8 --- Short recess.

9 THE WITNESS: During the recess, Mr. Sinclair,
10 I had an opportunity to check that exhibit which I
11 offered in the Southern Grain Case and I find that
12 we adjusted the switching methods but we did not
13 adjust the car days, at origin, and therefore the
14 fact is that we did treat the inactive time as a
15 percentage of active time.

16 THE CHAIRMAN: I think before we proceed,
17 Mr. Sinclair, we should congratulate Major Lafrance
18 for giving us a comfortable place to operate in.

19 MR. SINCLAIR: I must say, Mr. Chairman,
20 that having spent some time in another place I hope
21 we don't have to return there until we finish, and
22 I would suggest respectfully to the Commission that
23 if it could be arranged we complete the hearings where
24 we are now. This is a good place.

25 THE CHAIRMAN: Well, he certainly is
26 entitled to credit.

27 MR. SINCLAIR: He certainly is.

28 Q. Mr. Saunders, volume I, page 32, "Role
29 of Government"?

30 A. Yes, sir.



1 Q. The government has played an active
2 part in your country in the development of railways,
3 Mr. Saunders?

4 A. Yes, sir.

5 Q. It was the normal role of government in
6 the United States to make land grants to railway
7 companies in consideration of these companies undertaking
8 the obligation of building lines?

9 A. Yes, sir.

10 Q. And in some instances, in the United
11 States, as a consideration of land grants to certain
12 railways, the United States government required the
13 railway recipient to undertake to move certain
14 traffic at lower than normal rates -- the land grant
15 rates?

16 A. Yes, sir.

17 Q. Because of increasing costs in
18 railway transportation, some years ago the government
19 found it necessary to forego those special rates --
20 the land grant rates are not now part of the rate
21 structure of the United States railways?

22 A. That is true, but we still have what
23 are called Section 22 rates.

24 Q. That is right.

25 A. Which are low rates for the government.

26 Q. Which are a special rate for the
27 government? Would that be a better way of expressing it?

28 A. Well, they are special, but they are
29 lower than normal.

30 Q. They are lower than normal?



1 A. Yes, sir.

2 Q. But they are, you will agree, compensatory
3 rates?

4 A. Well, I just haven't faced that question
5 at all.

6 COMMISSIONER MANN: They are not put in
7 to requite the government for the land grants?

8 THE WITNESS: Well, I think they are part
9 of that history, and while we don't have land grant
10 rates ---

11 MR. SINCLAIR: Q: Mr. Saunders, I think
12 Commissioner Mann put to you a specific type of rate:
13 Section 22 quotation rates can be applicable to roads
14 that have not received land grants?

15 A. Oh yes, that is right.

16 Q. And these are not tied to land grants?
17 They are tied to government business -- section 22?

18 A. That is true, but I am merely saying
19 it is part of this history of the position of
20 government in the development of the railway industry.

21 Q. Now, on page 34 you quote from Dr.
22 Innis, and the difficulties of the Intercolonial,
23 and then you move on to the Canadian Pacific, and
24 you start the paragraph at page 34 in relation to the
25 Canadian Pacific with the transitional word "likewise".
26 By that transitional word is it your meaning that
27 you wish to convey that the Canadian Pacific had
28 the disabilities of the Intercolonial that adversely
29 affected its financial history?

30 A. Not quite that, but that the Canadian



1 Pacific was a part of the same set of issues of
2 creating the confederation, and it was seen in these
3 terms at that time, just as the quotation indicates
4 in the previous paragraph: "If the road must be
5 regarded as an essential part of confederation, its
6 success is measured in terms of the value of
7 confederation."

8 Q. That is the only comparison? I am
9 not testing you minutely on history. I just want to
10 make sure that is what you have in mind, that as the
11 Intercolonial rose out of Confederation in the
12 Maritimes, the Canadian Pacific rose out of
13 Confederation with the joining of British Columbia.

14 A. It was a decision on the part of the
15 government to do this for a political purpose.

16 Q. Would you suggest a deficit may be an
17 indication of success in respect of the Canadian
18 Pacific as was suggested by Mr. Innis as being
19 a measure of success on the Intercolonial?

20 A. I don't think I can quite apply it
21 that way. I think the comment should be taken,
22 though, in its context that deficits may be incurred
23 for political purposes in the interests of the national
24 welfare. I think that is something this Commission
25 should decide, as to whether there are national
26 policy considerations in the railway picture.

27 Q. Well, I am particularly interested
28 in the Canadian Pacific, and in my discussions with
29 you I have to keep that foremost in my mind, Mr.
30 Saunders. Did you consider the legislation dealing



1 with the Canadian Pacific railway before the present
2 company was established by the contract of October
3 21, 1880, which is known as the Canadian Pacific
4 Railway Contract and the Canadian Pacific Charter?
5 Did you consider the legislation that dealt with the
6 role of government in dealing with the undertaking,
7 Canada to the Province of British Columbia in
8 regard to transportation?

9 A. I don't recall any specific legislation
10 at the moment, but we certainly looked at the general
11 history and the feeling of the people at the time,
12 and that sort of thing.

13 Q. Yes. Do you remember looking at
14 what is known as 35 Victoria, to an Act respecting
15 the Canadian Pacific Railway and the inducements
16 that were provided under that statute to attempt
17 to have entrepreneurs take on the obligations of
18 building the Canadian Pacific Railway?

19 A. I don't recall it.

20 Q. Do you recall the legislation that
21 provided for an inducement to entrepreneurs for
22 building the Pacific Railway of fifty million acres
23 at \$30 million?

24 A. I don't recall that, Mr. Sinclair.

25 Q. The inducements offered to Canadian Pacific
26 under its charter, referred to as 44 Victoria, Chapter
27 1, were not of that magnitude, you will agree?

28 A. Well, you have referred me to some
29 numbers and acts which I am not familiar with, and,
30 not knowing the context of it, I don't feel I can



1 really answer that question.

2 Q. Well, I want to draw particularly to
3 your attention this statement at page 34 in your
4 reference to Canadian Pacific where you say, "When
5 the shift was made to a private group, the government
6 agreed to subsidize the new company with a gift of
7 money, land and railroad lines already built." Would
8 you tell this Commission what gifts you had in mind?

9 A. Well, the work done by the government
10 at that time was transferred to the new company. I
11 am not sure I recall the figures, the amounts of land
12 or value of construction.

13 Q. It is the use of the word "gift" I am
14 directing your attention to. Are you suggesting the
15 government made a gift to the Canadian Pacific Railway?
16 I suggest to you, Mr. Saunders, that what the
17 Canadian Pacific received from the government was
18 in consideration of the obligations of Canadian
19 Pacific set out in the contract that is appended to
20 44 Victoria, Chapter 1 and which is dated the 21st, October
21 1880, and it is wrong to describe them as gifts:
22 you will agree?

23 A. Well, if I have mis-stated it I
24 certainly will correct it, but that is my impression
25 from the reading I have done.



1
2 Q. Have you been reading the Winnipeg
3 Free Press?

4 A. No, but I have read the specific
5 documents in this field. It has been discussed by
6 various Royal Commissions.

7 Q. Do they use the word "gift"? Maybe
8 you could give me the reference?

9 A. I was about to say -- what I would
10 like to do is to note this point and I would be happy
11 to amend it to a more appropriate word, if it is not apt. But
12 if it is apt, I would like to leave it the way it is.

13 Q. But I would like to know very
14 specifically what the gifts are; why you say they are
15 gifts.

16 A. Yes. I would be happy to do that
17 between now and the resumption after the recess.

18 Q. Now, on page 38, Mr. Saunders, you
19 adopted the word "tragedy" from the Royal Commission of
20 1931 which is known as the Lionel Pooler Duff Commission.

21 MR. MacKIMMIE: I'm sorry.

22 Mr. Sinclair referred you to page 38,
23 suggesting you adopted the word "tragedy" from the
24 Duff Commission, Mr. Saunders.

25 MR. SINCLAIR: Q. Described the results
26 as a tragedy -- and you have adopted that designation
27 from the Duff Commission?

28 A. Well, I am citing the Duff Commission
29 here. I do not know what you mean by adopted it. That
30 is what they said.



1
2 Q. Well, you have adopted it to describe
3 what follows in regard to the railway position in Canada,
4 I take it?

5 A. Yes, sir.

6 Q. Now, have you carefully considered the
7 Duff Commission report and the appendices to that report
8 and particularly the appendice of Dr. Parker?

9 A. Which appendix are you referring to
10 now?

11 Q. The appendice that was written by
12 Dr. Parker.

13 If you are looking at that book, I think
14 you will have to look a long time because it is my
15 recollection it is not in that book that you have in your
16 hand.

17 A. Well, I did not recognize the name as
18 an attachment to the appendices here.

19 No, I do not believe I know that appendix.

20 I am looking here, for the record's benefit,
21 at this blue covered document Report of the Royal
22 Commission to Enquiry into Railways and Transportation in
23 Canada, 1931-1932.

24 Q. Now, Mr. Saunders, you will agree,
25 I take it, that the excess that was described as a
26 tragedy by the Duff Commission was the building of the
27 Canadian Northern and Grand Trunk of two additional
28 Trans-Continental lines, which in the view of the Duff
29 Commission was not required; that only one additional
30 Trans-Continental line was necessary to have a proper



1
2 competitive transportation system between the Canadian
3 Pacific and other companies, east versus west?

4 A. Well, I think the problem of excess
5 capacity results from the aggregate of these things and
6 not from any particular one or any particular two.

7 Q. I am suggesting to you that the Duff
8 Commission restricted itself to this extra Trans-
9 Continental line when they described that as a tragedy,
10 and the 5,000 miles that is generally referred to
11 arising from the Duff Commission report was an extra
12 Trans-Continental line?

13 A. Well, that may be so. I do not recall
14 anybody saying just how that 5,000 miles was calculated.
15 It is not in the report?

16 Q. I'm sorry. I said 5,000; it is 4,000
17 miles.

18 A. I do not recall how the 4,000 miles --
19 I do not recall that the report said how the 4,000 miles
20 was calculated.

21 Q. Have you ever read --

22 A. But I am saying that as far as I am
23 concerned I think it is a broader question than that,
24 than any particular line. It is the total of lines
25 shown by my map.

26 Q. Yes. But have you been in behind the
27 data and material in the Duff Commission with any degree
28 of intensity, Mr. Saunders?

29 A. Only to this extent: we were very
30 interested in that density analysis that they made --



1

2 that Professor Robert made at that time. We sought to
3 get the detail of that from Canadian Pacific in order to
4 see just what definitions were used in separating the
5 country by zones, and we found we could not get access
6 to that. And that is as far as we were able to go.

7 Q. I think you will find that
8 unfortunately a great amount of the data developed by
9 the Duff Commission is no longer available anywhere.

10 A. I see.

11 Incidentally, I have that reference now
12 about the gift. I just happened to come across it as
13 I was looking through this Duff report here. On page
14 10 of the printed volume, it says:

15 "Later a syndicate which afterwards
16 developed into the Canadian Pacific Railway
17 Company entered into an arrangement with
18 the government to construct this Trans-
19 Continental line in ten years, from 1880
20 to 1890. The agreement provided that the
21 country subsidize the company by a gift
22 of \$25 million dollars, 25 million acres
23 of land and of the railway lines already
24 constructed with public monies at a cost
25 exceeding \$37 million dollars."

26 Q. Yes. What you have written is a
27 paraphrase of that. Now, that is exactly what I was
28 interested in, because you also, from your reading of
29 this, have noted that in the report, that the drafters
30 of the report were careful to tie that general language



1
2 into the reference of the contract?

3 A. Well, are you suggesting that I was
4 wrong to use this language now?

5 Q. No, I never suggested that in the first
6 place.

7 A. I thought you did, on page --

8 Q. What I am suggesting to you is that
9 this Royal Commission, the Duff Royal Commission, made
10 specific reference, and they are saying throughout:

11 "Notwithstanding the generality of our
12 language, look at the contract".

13 And they have referred the reader to 44
14 Victoria, Chapter I. I was wondering if in the light
15 of that you had looked at 44 Victoria, Chapter I?

16 A. No, I have not looked at 44 Victoria,
17 Chapter I, but I did say on page 34 when the shift was
18 made to a private group, the government agreed to
19 subsidize the new group with a gift of money, and so
20 forth.

21 Q. And I was asking you what those gifts
22 were, and you are now suggesting that, as I thought you
23 had, you had taken this from the Duff Commission -- that
24 is, 25 million acres and railway lines already constructed?

25 A. I do not know that I took it from the Duff
26 Commission, but I am merely saying to you that in the
27 course of this other question I found this quotation that
28 seems to support this use of language.

29 Q. All right.

30 Now, what I am asking you is, is it your



1
2 view that you can interpret that without looking at the
3 contract, 44 Victoria, Chapter I?

4 A. I think it speaks for itself, Mr.
5 Sinclair.

6 Q. What? The Contract?

7 A. What I have said.

8 Q. But, Mr. Saunders, you see, the word
9 "gift" has certain connotations, and when the report is
10 in like that and the Commission says that the Canadian
11 Pacific honourably carried its contract, then you must
12 look at the contract?

13 A. Well, I do not see that there is any
14 inconsistency or conflict. The report also says that
15 the country subsidized the company.

16 Q. Subsidized is a different word than
17 gift.

18 A. Would you rather I used the word
19 subsidized?

20 Q. Yes.

21 A. All right. I am perfectly willing to
22 change that. I did not attach any psychological
23 significance to the word.

24 Q. It is more than psychology; it is a
25 question of fact.

26 Would you also do this? Would you also
27 say that subsidies for paid to Canadian Pacific in
28 consideration of the obligations undertaken by Canadian
29 Pacific?

30 A. Oh, I think that would go without



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saying. I would be happy to say that.

Q. Thank you. That is all I had in mind.

Now, at the present time, Mr. Saunders, is it your submission to this Commission that the 4,000 miles excess lines referred to in the Duff Commission Report, which I say arose from the double Trans-Continentials in the northern, north of the Canadian Pacific, are now excess capacity?

A. Well, you have put some things into that question that prevents me from saying yes or no to that. Let us separate for a moment the question of which particular 4,000 miles were meant by the Duff Commission.

Q. Yes.

A. And I will then say that is my opinion that there are more than 4,000 miles of line which are excess. Now, it may be that the Duff Commission had in mind certain particular lines. My analysis has gone beyond that into the question of Duff total supply of railway facilities in Canada.

Q. But, Mr. Saunders, if you do not mind, I think we must, in view of the way you have written this part of your submission to this Commission, be careful how we do it.

For instance, on page 40, you say:

"For example, if we accept the figure that some 4,000 miles of unnecessary lines were built by the end of the first decade of this century, staggering sums are involved."



1
2 Now, those are the 4,000 miles of the
3 Duff Commission, I suggest ~~to you~~, in the view of the
4 Duff Commission in 1931 were excess in the Trans-
5 Continental system?

6 A. Well, that is true. The Duff Commission
7 referred to certain lines that it had in mind, whatever
8 they were, in 1931, and that produced their figure of
9 4,000 miles.

10 Q. Well, I am asking you, of those 4,000
11 miles on the Trans-Continental over-building in the view
12 of the Duff Commission in light of the circumstances in
13 1930, which of those 4,000 miles do you say are today
14 in excess?

15 A. Well, I do not think I can put it down
16 mile by mile that way. I think it would be a mistake
17 for anyone to stand up or sit down and try to do that
18 without the sort of organizational treatment that I
19 suggested when I first started here on Monday, because
20 it is not something where you look and say a particular
21 piece of line is excess just by some magic. It has to
22 be looked at in relation to the other lines that are
23 in the territory.

24 Q. What you are saying is you must not
25 determine that railway mileage is excess by merely
26 looking at a map?

27 A. No. I am saying you have to look at
28 a map and you have to look at the traffic and the other
29 conditions of the railway, but just because the Duff
30 Commission referred to the Inter-Colonial or any



1
2 particular piece of track does not mean that that
3 particular piece of track must be taken out if there are
4 other facilities near it or parallel to it. It may be
5 that a combination of the two should be partially
6 dismantled.

7 Q. All I am suggesting to you is that,
8 in looking at what is excess, if there is any excess,
9 this cannot be done by merely taking a map, drawing in
10 railway lines, and saying, "These are close together,
11 therefore they are excess".

12 A. Not entirely. It cannot be done
13 entirely by looking at a map.

14 Q. I say at all.

15 A. Well, we differ there.

16 Q. What kind of a map would you think
17 would be necessary in your opinion to allow you to use
18 it at all? Do you think it would have to show a river
19 have to show any rivers?

20 A. If you were going to sit down and
21 decide on the particular pieces to be abandoned, you
22 would certainly want more than a map and you would
23 certainly want more than the rivers, and you would want more
24 things to take into account. I did not think it was my
25 job here to tell this Commission which particular lines
26 should be abandoned. I do feel in the aggregate it is quite
27 fair to say that there is excess capacity in the Canadian
28 railway system.

29 Q. You did submit to this Commission a list
30 which I think you have described in your testimony as



1
2 "dramatically portraying the excess capacity", or words
3 of that situation?

4 A. Yes. I also referred to them in the
5 sense "schematic". I did not consider them to be only
6 an engineering situation on each of those lines.

7 Q. And, indeed, they are not even up to
8 date?

9 A. Yes, sir.

10 Q. Because they show lines that have been
11 abandoned as much as a few years ago.

12 COMMISSIONER GOBEIL: May I ask a question?

13 Mr. Saunders, did you make a special study
14 of lines abandoned, or is that 4,000 miles taken from
15 the 1931 Royal Commission?

16 THE WITNESS: The 4,000 is taken as an
17 illustration from the Duff Commission Report, and I
18 merely said if we took their figure, then this is what
19 it would cost today.

20 COMMISSIONER GOBEIL: But you did not do
21 any special study which would show you that maybe there
22 is 5,000 or 6,000, or only 3,000?

23 THE WITNESS: That is right. Then,
24 subsequently we made our analysis of the traffic on the
25 Canadian National, and the traffic on the Canadian Pacific.
26 We went into the details segment by segment on each of
27 the lines to see how much traffic was moving. We took
28 that analysis and we broke that down by what I call
29 "traffic density groups", and we analysed the number of
30 miles of track on which there was very light density.



1
2 Now, I am saying in response to Mr.
3 Sinclair that we have made that study and we have made
4 these maps, and it is in the light of those things that
5 I have said that I feel it is more than 4,000 miles
6 today which should be eliminated, but that I cannot pick
7 out the particular ones to be eliminated without
8 considering these factors that I mentioned on Monday:
9 the economic problems of the people in that community
10 in making a long range plan so that they know they are
11 going to be without rail facilities. It is that kind
12 of a study that has to be made.

13 COMMISSIONER GOBEIL: You say your study
14 showed it was more than 4,000. Was your study detailed
15 enough to say it is 6,000, 5,000, or 3,000?

16 THE WITNESS: I do not feel we have that
17 much information about it, sir.

18 COMMISSIONER GOBEIL: Thank you.

19 MR. SINCLAIR: Q. Now, the Trans-Continental
20 lines that the Duff Commission mileage found were excess
21 had nothing to do with the Canadian Pacific Railway plan,
22 I suggest to you.

23 A. Well, I suggest that my understanding
24 of it is different. It may be that I am in error, that
25 I see this as a decision that could be made by the
26 Duff Commission or by anyone else only in the light of
27 the total capacity available between areas, and I read
28 from page 11, for example, of this Duff Commission Report,
29 that after discussing all the particular lines they do
30 not say this line is excess and that one is not. They



1
2 say, and I am quoting:

3 "Thus, there developed by the authority
4 of the parliament of Canada the tragedy
5 of three Trans-Continental railways providing
6 with branches over 4,000 miles of
7 unnecessary lines, when two were all the
8 business of Canada required or could
9 support".

10 Now, I think nobody says, "This line sitting
11 out there by itself is a good one", and "That is a bad
12 one". It is the fact that altogether you have more lines
13 than you need, and the Canadian Pacific is part of that
14 total picture. I did not single it out as being good, or
15 single the Canadian National out as being bad. It has
16 no connotation of particular people or particular areas
17 at all.

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1 Q. Well, Mr. Saunders, I think in my
2 submission to you and in my questions to you I am
3 going to single out because I feel it is necessary
4 to understand it if you will just bear with me.
5 At page 39 you go on to say:

6 "That as a result of the outbreak of
7 World War I the Transcontinental lines
8 found themselves in financial straights."
9 Now, the historical fact, I think, will demonstrate
10 when you make that statement surely you must be
11 referring to the railways that subsequently went
12 bankrupt or became in such straights that they were
13 soon bankrupt and taken over by the Government of
14 Canada. You are not referring to Canadian Pacific,
15 are you?

16 A. I do not understand where you are
17 reading.

18 Mr. MacKIMMIE: Page 38.

19 THE WITNESS: I thought you said page 39.

20 MR. SINCLAIR, Q: I think I did and I am
21 sorry.

22 A. Well, I cannot tell you what the
23 situation was as to particular roads.

24 Q. Well, the Transcontinental lines, I
25 am suggesting to you, the generic term can include the
26 C.P.?

27 A. Yes, sir.

28 Q. I am suggesting to you that when you
29 say:

30 "As the result of the outbreak of



1 World War I, the Transcontinental lines
2 found themselves in financial straights."

3 I am suggesting to you that what we are
4 talking about here is the financial straights that
5 developed into such magnitudes that the railways were
6 bankrupt or nearly bankrupt -- I do not care which
7 phrase you put on it.

8 A. Well, I cannot say specifically what
9 the situation was at that time. I do see a notation
10 here that in 1919 the Duff Commission apparently
11 referred to the condition of the uncompleted lines
12 and that would not include the Canadian Pacific.

13 Q. Now, Mr. Saunders, I suggest to you
14 that the Duff Commission report material that is
15 available notes the fact with respect to branch line
16 construction that there was considerable agitation
17 on the part of settlers for more convenient
18 transportation arrangements and that they had the
19 support in this agitation of the entire business
20 community.

21 A. I can accept that as being a very
22 realistic description, I think it has happened
23 generally in Canada and elsewhere.

24 Q. And so when you are looking at
25 investment in railway lines in Canada, I am talking
26 particularly about Canadian Pacific, in saying what
27 should be looked upon and what should be done with
28 this investment, the test to apply as to the investment
29 that should be given recognition to any rate making
30 or other decisions is as to the prudent investment



1 theory?

2 A. That is a big leap from where we were
3 a minute ago.

4 Q. Do not worry if you cannot make those
5 leaps. I do not find them big leaps at all because
6 this country and its history are rather familiar to
7 me.

8 A. It is not a question of history at
9 all, you have taken a leap of logic from fact that
10 people in these communities wanted rail service
11 to a regulatory concept of rate basis which I submit
12 has nothing to do with what we are talking about.

13 Q. I am not interested in your statements
14 as to what they have to do with this. I am asking
15 you: in approaching the investment that should be
16 recognized in a railway utility for rate-making
17 purposes that the prudent investment theory should be
18 applied, do you agree?

19 A. No sir, I do not agree.

20 Q. Do you know what investment theory
21 is applied with respect to the determination of railway
22 investment in the United States?

23 A. Well, I think that has been an evolutionary
24 thing, Mr. Sinclair. If you had asked me that twenty
25 years ago I would have given you a different answer
26 than today and today my answer is that I am not sure
27 that there is a rate base concept applied by the ICC
28 in testing whether the rates are reasonable. They
29 show certain figures, but I do not believe that the
30 decision of whether or not the increased rates are



1 based on some yardstick about 4 per cent or 5 or 6
2 per cent of some rate base.

3 Q. Mr. Saunders, do not jump to conclusions.
4 I said any recognition of a regulatory tribunal on
5 investment, that does not necessarily set the rate
6 base at all. I suggest to you it can set and is
7 used in respect of investment used for movement of
8 a particular segment of traffic .

9 A. How do you get the investment into
10 the deliberations of the agency unless you relate it
11 to some rate of return or something of that sort?

12 Q. I am not here to answer your questions.

13 A. I do not know what you are asking me.

14 Q. You do not understand my question is
15 what you are saying?

16 A. That is right.

17 Q. Well, my question is simply this: in
18 determining what is the investment that must be
19 recognized as one requiring servicing in doing a
20 cost study, if you are going to look at the investment
21 and analyse it you apply the prudent investment
22 theory?

23 A. Many do that, many people do it and
24 they do other things.

25 Q. I am suggesting that is the correct
26 application, the prudent investment theory?

27 A. I do not think it is as simple as that
28 that you can say it should or should not be. It
29 depends on the situation in which you are making the
30 study. Most people, for convenience just use the



1 book figures or some simple yardstick of that sort.

2 Q. Do you know that in Canada we have
3 had the investment in Canadian Pacific thoroughly
4 analysed and adjudicated upon and found by the
5 regulatory tribunal.

6 A. Yes, sir.

7 Q. So that in the United States there
8 is some problem in regard to what is the investment
9 figure in the railroads?

10 A. That is right.

11 Q. And this affects costing?

12 A. Yes, sir.

13 Q. But in Canada the investment in
14 Canadian Pacific has been thoroughly gone into and
15 fixed by the regulatory tribunal?

16 A. I can appreciate that and I do not
17 question that fact -- they have done it.

18 Q. So, in that regard again in respect
19 to costing we have a little solid base to go on
20 than you have in the United States?

21 A. You have a figure that has been accepted
22 by the regulatory board.

23 Q. They have made an investigation and
24 found it.

25 A. We have that in the United States too
26 in certain rate making cases that have been determined
27 by the ICC. However, people still argue about them
28 and what they mean but we know what the figure is.

29 Q. But in Canada that has been fixed and
30 it has not been a matter of argument, to my knowledge,



1 since 1956. Did you know that?

2 A. I knew it was done in 1956, I do not
3 know if there has been controversy since; I have no
4 knowledge of that.

5 Q. And it is not your suggestion that that
6 figure which the Board has recognized after its
7 investigations is not a proper figure to be adopted,
8 is it?

9 A. Well, I am perfectly willing to let
10 them adopt whatever figure they want. It is not
11 my place to disagree with what they are going to do
12 in the rate making procedure. I am merely saying,
13 depending on the question you asked, that might not
14 be a very useful figure.

15 Q. I am suggesting to you that for costing
16 purposes you are not going to suggest that the figure
17 developed by the Transport Board as to investment
18 in rail property, C.P., is wrong?

19 A. That is a very broad context of
20 legislative history and a great many other things which
21 I do not feel I can answer in terms of right or wrong.
22 I can tell you instead that it would be my view, if
23 I had the problem of deciding what to do about the
24 problems of the railways which is the general question
25 before this Commission, I would not be bound by
26 this investment figure. That is the answer to the
27 question. I would want to look behind that figure.

28 Q. I am not interested in your philosophy,
29 I am interested in what is your position. The Board
30 of Transport Commissioners, after an investigation,



1 determined the net investment in rail enterprise of
2 Canadian Pacific Railway Company and found it?

3 A. Yes, sir.

4 Q. And that investment that they found
5 is the basis for investment used in the cost study
6 for the movement of grain before this Commission;
7 this you know?

8 A. Yes, sir.

9 Q. My question to you is: are you
10 suggesting to this Commission that that investment
11 in Canadian Pacific as determined by the Board should
12 not be accepted by this Commission as reliable and
13 one that they can rely on for the costing of grain?

14 A. I am perfectly willing to accept the
15 fact that it may be reliable in measuring what it
16 says it measures. My only point is, it is not the
17 number that should be used by this Commission in
18 deciding what to do about the problem of the railways
19 of Canada.

20 Q. Let me put it to you again. I know
21 you are trying to be responsive to my questions and
22 I am sure it is all my fault. My question to you
23 is this: are you suggesting to this Commission that
24 in regard to the costing of grain and the cost
25 study prepared by C.P. and its use of the investment
26 as determined by the Board of Transport Commissioners
27 that this Commission should not rely on that
28 investment but they must open that question up and
29 consider it?

30 Mr. MacKIMMIE: Mr. Chairman, I just wonder



1 if my friend appreciates what he is asking? Unless
2 Mr. Saunders has had an opportunity of examining
3 all the data on which the Board of Transport
4 Commissioners found that figure then it is embarrassing
5 to ask an American consultant if he is going to say
6 the Board of Transport Commissioners was wrong. That
7 is, in effect, what is being asked. If my friend
8 can establish that Mr. Saunders did look into and
9 did study the documentation and the submissions made
10 to the Board of Transport Commissioners in fixing
11 that figure, that is one thing. But, there has been
12 no foundation of that kind laid at all. I certainly
13 do not think it is fair that Mr. Saunders should have
14 to say yes or no that this Commission should except
15 holus bolus what the Transport Board has said. I
16 am not as sensitive as Mr. Saunders is. As far
17 as grain is concerned I do not think this Commission
18 should be bound by anything that in its own judgment
19 it does not want to accept. In blind faith I have
20 a great respect for the Transport Board but I cannot
21 say, in conscience, that they have never been wrong.
22 I say this Commission, as far as my client is
23 concerned, in its own judgment if it wants to
24 accept something another Board did then that is fine
25 but I think it is unfair to ask this witness whether
26 or not the Commission should do it. I am objecting
27 to that line of questioning.

28 THE CHAIRMAN: What is the question again?

29 MR. SINCLAIR: My question is: is it the
30 suggestion of Mr. Saunders to this Commission that the



1 net investment rail which the Canadian Pacific used
2 in its costing of the movement of grain to export
3 positions should not be accepted by this Commission?

4 A. Yes, sir.

5 Q. That is your suggestion?

6 A. That is my suggestion.

7 Q. You do not think the Board did its
8 work properly?

9 A. I think the Board did its work properly,
10 I am sure they did a competent job. On the other
11 hand, I have not studied it, but I have no quarrel
12 with the Board in setting out to measure what they
13 did measure. I say it is an interesting fact and
14 one that can be used but it does not have anything
15 to do with the national problem which this Commission
16 has before it. This Commission does not have to
17 say -- I know I sound as though I am saying what
18 this Commission has to do and I apologize for that
19 but as I see it the question here is whether something
20 should be done about the whole structure of the
21 railway system in Canada, not accepting it
22 the way it is just because it is there.



1
2 Q. With due respect, and you have been
3 a witness during hundreds of days, I am going to ask you
4 to please be responsive. You have made a speech about
5 what your philosophy is as to what this Commission should
6 be doing. We have heard this before. I am asking you
7 specifically with respect to the problem that is before
8 this Commission, and that is the cost of moving grain,
9 and not what you think this Commission might do about
10 the general problem of transportation in Canada, but
11 specifically with respect to the determination of the
12 cost of handling grain.

13 MR. MacKIMMIE: Just a minute. Surely the
14 record shows he asked and put the question again, and
15 the witness says, "Yes, that is what I am saying". He
16 answered my friend, and then gives his reason, and then
17 my friend challenged him -- "are you saying that the
18 Transport Board is wrong?" -- that was the last question.

19 MR. SINCLAIR: I suggest I have every
20 right to test the witness' views as to what he thinks
21 are the methods this Commission can or cannot rely on
22 for the costing of grain, and his answer was --

23 MR. MacKIMMIE: He answered that.

24 MR. SINCLAIR: His answer was to my
25 question, "I do not think they should take it because
26 I think that they should get involved in the whole
27 question of the national transportation policy." I
28 say I want him to direct his mind to the determination
29 of the cost of moving grain. That is what I am asking
30 the witness to turn his mind to.



1
2 MR. MacKIMMIE: Well, if we are on another
3 subject, yes.

4 MR. SINCLAIR: We are not on another
5 subject.

6 MR. MacKIMMIE: You started to scold him.
7 Go ahead and ask him a question.

8 MR. SINCLAIR: With all due respect, I
9 object to my friend saying I am scolding his witness or
10 that I can get on with it now.

11 THE CHAIRMAN: You are referring to one
12 problem.

13 MR. SINCLAIR: Of course, I am.

14 MR. MacKIMMIE: Now, wait until the question
15 comes.

16 MR. SINCLAIR: Q. I will put it again,
17 Mr. Saunders: in the determination of the cost of
18 moving grain to export positions, is it your suggestion
19 that this Commission in looking at the cost study of
20 Canadian Pacific and its use therein of the determination
21 of net rail investment by the Board cannot accept that
22 with confidence?

23 A. If you had not put the words "with
24 confidence" in there, we might be all right.

25 Q. "Cannot accept that?"

26 A. Yes sir, I do not believe the
27 Commission should accept that.

28 Q. Why?

29 A. Because I feel that its function here
30 is broader than a mere routine cost study, and I feel



1
2 though this Board of Transport Commissioners' figure
3 is very good and very accurate for what it sets out to do
4 it is not the figure that should be used in a policy
5 investigation of this sort.

6 Q. Well, Mr. Saunders, the investment in
7 the rail enterprise is a necessary component of a cost
8 study; correct?

9 A. Fine, yes sir.

10 Q. Are you suggesting before this
11 Commission can complete their work that they have to
12 determine what the investment is for costing grain?

13 A. No sir, I am merely suggesting you
14 go ahead and make your calculation and look at it and
15 see what it says and then ask yourself, "Now that I have
16 seen it, what does it mean?". I think this Commission --
17 you are putting me in a position of talking like a
18 lawyer, and I am not.

19 Q. I certainly do not want to even try
20 to put you in that position.

21 A. I am trying to explain how I view
22 the distinction between having a number and calculating
23 it and saying that it is correct mathematically, and
24 then saying, "What does it mean?" It seems to me this
25 Commission should be able to look at the number and then
26 ask itself how it relates to all of the problems the
27 Commission has to face, and it does not have to take
28 over the job of the Board of Transport Commissioners
29 and go into an engineering study or a big twenty year
30 investigation of construction cost indexes and that sort



1
2 of thing and revalue the property, but it can come to
3 some general conclusion about whether we have more or
4 less investment than we need.

5 COMMISSIONER GOBEL: But you believe if
6 we do what you say that we will not be in agreement with
7 the Board of Transport Commissioners, if I understand you
8 well?

9 THE WITNESS: Well, it is for this reason;
10 it is not an engineering question at all, Mr. Commissioner.
11 The investment of \$1 billion, 400 million that is in the
12 C.P.R. study reflects the present total property, and
13 all I am saying is that the present total property is
14 more property than is really needed. So, I am saying
15 that could be scaled down in our thinking and in our
16 evaluating the cost figures. It does not mean the cost
17 figures are right or wrong. It means the assumption on
18 which they are based does not necessarily have to be
19 accepted.

20 THE CHAIRMAN: Your approach is that the
21 door is wide open as far as we are concerned?

22 THE WITNESS: Yes, sir.

23 MR. SINCLAIR: Q. Mr. Saunders, my
24 question to you is this, that in determining the cost
25 of grain the figure you use is the figure of the
26 investment in the plant as it exists today?

27 A. The figure I used?

28 Q. The figure you should use?

29 A. You can go ahead and use that. I have
30 no objection to that.



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Q. None at all?

A. I do it all the time. There is no quarrel about that.

Q. Then, you have another problem, you say, and that is whether there is excess capacity in the Canadian Pacific?

A. I do not want to limit it to the Canadian Pacific. It is the total system.

Q. I want to limit it to Canadian Pacific. You say Canadian Pacific has too much railway lines?

A. Yes, sir.

Q. How many months, days, weeks, whatever you want to take, have you spent travelling on Canadian Pacific in the last five years?

A. Not very many.

Q. Have you spent any?

A. I have spent some time, but very little.

Q. Travelling on Canadian Pacific?

A. Yes.

Q. Between what points, Mr. Saunders?

A. Well, I suppose from Montreal to Ottawa, and I think from Winnipeg -- I mentioned yesterday it was in a sleeper, so I could not see the terrain -- from Winnipeg to Minneapolis-St. Paul.

Q. So, you have travelled on Canadian Pacific to Montreal and Ottawa and between Winnipeg and Emerson, Manitoba, at night?

A. That is right.

Q. Notwithstanding that, you are prepared



1
2 to tell this Commission what lines of Canadian Pacific
3 should be abandoned?

4 A. No, sir.

5 Q. But you are prepared to say there are
6 lines which should be abandoned?

7 A. Yes, sir.

8 Q. Have you had an opportunity of
9 considering the submission made to this Commission made by
10 Mr. Emerson?

11 A. Yes, sir.

12 Q. And you have read what his view is as
13 to lines of Canadian Pacific, east-west, that are in the
14 abandonment class ?

15 A. Yes, sir. I cannot think of a more
16 direct head-on clash of opinion.

17 Q. Well, I am very glad to hear that.
18 In other words, you disagree with Mr. Emerson.

19 MR. MacKIMMIE: Head-on, he said.

20 MR. SINCLAIR: Q. Well, that is fine.
21 That is a good, clean way of putting it.

22 A. I wonder if I could explain it so you
23 do not misunderstand me.

24 Q. Oh, I can understand a head-on collision
25 very well. I know exactly what that means.

26 THE CHAIRMAN: That is plain English.

27 MR. SINCLAIR: Yes.

28 COMMISSIONER ANSCOMB: Mr. Sinclair, could
29 I interrupt there. I would like this witness to explain
30 what he means by "head-on collision" when, as an economist,



1
2 he is talking about a head-on collision with a man who
3 runs 15,000 miles of railway.

4 THE WITNESS: Yes, sir.

5 COMMISSIONER ANSCOMB: I think you owe it
6 to this Commission to say what you mean by that. It is
7 a pretty drastic expression.

8 MR. SINCLAIR: I was going to cover what
9 I thought of it in summation.

10 COMMISSIONER ANSCOMB: Well, I would like
11 to hear his explanation now.

12 THE WITNESS: I did feel it was an
13 important point of difference, and I found it very
14 disturbing when I read Mr. Emerson's testimony. We said
15 that the Duff Commission had come to certain conclusions
16 about a great number of light density lines

17 COMMISSIONER ANSCOMB: That is thirty years
18 ago.

19 THE WITNESS: Yes, and they had made
20 certain studies and showed the density of traffic in
21 the various sections, and added them up and came up
22 with some very interesting numbers, and I imagine those
23 figures are based on 1920 or 1930 operations.

24 MR. SINCLAIR: Q. 1930, I think.

25 A. Well, I am not sure it is clear --
26 the period or the date. But, in any event, it is a long
27 time ago -- thirty years ago. Mr. Emerson then came
28 along and said, "That does not mean very much because
29 it was thirty years ago, and our total traffic has more
30 than doubled since then, so we can throw that comment



1
2 away as irrelevant, childish and interesting but not
3 very helpful." I say that is a very unfair and misleading
4 interpretation of the facts in this record, because we
5 went into Canadian National's 1959 figures --

6 MR. SINCLAIR: I just want to hear what
7 you said. You said Mr. Emerson's testimony was very
8 misleading, did you?

9 --- THE REPORTER (Reads): "... A very unfair
10 and misleading interpretation of the facts
11 in this record...

12 MR. SINCLAIR: Q . Mr. Emerson's evidence
13 was a very unfair and misleading interpretation of the
14 facts?

15 A. In this record. Now, we studied the
16 1959 records of the Canadian National and we studied the
17 most recently available figures we could get from the
18 Canadian National which they had to work with as
19 management, and those were the 1954 figures, and I think
20 they are good enough to test the difference between 1930
21 conditions and current conditions in a general way, and
22 I am satisfied at least that any distortion in that is
23 not going to explain the end result of this. When we
24 did that we found that the distribution of those light
25 density lines which the Duff Commission found in 1930 was
26 very, very similar to the distribution of those light
27 density lines in 1954 and 1959 and, in fact, that there
28 were at least as many and possibly more light density lines
29 on the Canadian Pacific today as there were a generation
30 ago. So, I say that the mere fact that total traffic has



1
2 gone up in that period is really an irrelevancy. In the
3 analysis of the figures you will find these light density
4 lines are still as they were then, and, as you might
5 expect, the increase in traffic on the system as a whole
6 has tended to fall on the main lines. I submit that is
7 a very important fact, and as far as I can see it is an
8 utterly incontrovertible fact, in anything Mr. Emerson
9 put in, and merely dismissing the problem of light
10 density lines by saying total traffic has gone up is to
11 leave it in a very obscure situation, and that is why I
12 say there is a head-on collision, because his language
13 is very strong to the effect there is no such thing, and
14 I say there is, and I say it only because we have figures
15 that show it.

16 Q. And he misled this Commission with his
17 testimony because of his knowledge of the situation?

18 A. His testimony did not deal with the
19 facts we offered on this point.

20 Q. I suggest to you his testimony dealt
21 with the Canadian Pacific Railway plant as it exists
22 and serves Canada of which he knows intimately?

23 A. Yes, but he did not answer the point
24 about light density lines.

25 Q. I suggest to you, like a number of
26 other economists you are mesmerized by figures and you
27 have allowed yourself to be drawn into error by saying
28 a light density line in and of itself presents a problem?

29 A. That is not the question at all, and
30 I would like to be very clear about it. The question



1
2 of fact was whether the situation was different today
3 than in 1929 or 1930, and he said that it is different
4 as to the number of light density lines, and I say it
5 is not different as to the number of light density lines.
6 There is a factual disagreement, and he did not challenge
7 those facts.

8 Q. You are restricting your statements now
9 to one part of Mr. Emerson's testimony, where you have got
10 the head-on collision, and you think his statement is
11 misleading. Would you read to me the specific part that
12 you are now putting in issue?

13 THE CHAIRMAN: Well, I think we will
14 adjourn now.

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17 --- Luncheon adjournment ---
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1 --- On resuming at 2:00 p.m.

2 THE CHAIRMAN: Order, please.

3 MR. SINCLAIR, Q: Mr. Saunders, in regard
4 to this question of excess railway on the Canadian
5 Pacific that you allege, I wonder if you would agree
6 with this: there is always some danger of short-sighted
7 economies. Lines which it was once thought prudent
8 to abandon have since been justified by increases in
9 the volume of traffic; and the growth of population
10 has made some measures of cooperation unnecessary.
11 In such questions no judgment can be infallible and
12 the best decision is probably that reached by
13 experienced railway officials.

14 A. No, sir.

15 Q. You would not agree with that?

16 A. Not entirely.

17 MR. SINCLAIR: This is a quotation, Mr.
18 Chairman, from page 223 of the Royal Commission report,
19 being the first Turgeon Royal Commission.

20 I do not think I have any further questions
21 of this witness, Mr. Chairman.

22 THE CHAIRMAN: Mr. McDonald?

23 CROSS-EXAMINATION BY MR. McDONALD:

24 Q. Mr. Saunders, I have a few questions
25 to clarify some things in your submission. First,
26 your volume 1, page 104. You are dealing there
27 with the passenger deficits.

28 A. Yes, sir.

29 Q. And there you have your Table VIII - 11.

30 A. Yes, sir.



1 Q. And you show the revenue for the
2 Canadian National at \$66.1 million?

3 A. Yes, sir.

4 Q. Now, you refer to the Canadian National
5 official's evidence -- the evidence of Mr. Hart --
6 in volume 111 at page 18418. That shows the revenue
7 for 1958 passenger train service to be \$95,212,000.00.

8 Now, there is a difference there of over
9 \$29 million between your figure and the evidence which
10 is in; and I am suggesting to you that you probably
11 left out the Express revenue shown in accounts 160,
12 161 and 162?

13 A. I am sure the difference is in the
14 treatment of Express.

15 Q. Yes.

16 A. And I think it is a matter of our
17 having treated express in the subsequent chapter, but
18 I will want to check that ~~and~~ be sure. We are aware
19 of this accounting matter.

20 Q. I think another thing that might
21 explain your difference there, Mr. Saunders, is that
22 in the United States the express is handled by the
23 railway express agency; correct?

24 A. Yes, sir.

25 Q. And on the Canadian National it is
26 handled as a department of the company, not by a
27 separate corporation?

28 A. Yes, sir.

29 Q. And in the Canadian National statements
30 they credited all express revenues and they deducted



1 all expenses?

2 A. Yes, sir.

3 Q. So that accounts for the difference?

4 In other words, you did not take into consideration
5 the revenues in accounts 160, 161, and 162?

6 A. Well, I will simplify that by saying
7 that we certainly did not include those accounts in
8 our revenues. We did not include those in our
9 revenues. I believe you will find, however, that we
10 also did not include the expenses of the express
11 operation.

12 Q. Yes, but in the Canadian National, in
13 the evidence of the Canadian National for which I have
14 given you the reference, those revenues were included
15 and the expenses were also included?

16 A. Yes. I think, as I said earlier, the
17 difference is -- in order to reconcile our treatment
18 with the treatment of Canadian National you would
19 have to combine what we did in the passenger service
20 chapter with what we did in the small shipments
21 chapter where we dealt with express as a separate
22 category.

23 Q. You know express is carried on passenger
24 trains and sometimes there are three, four, five or
25 six express cars on a passenger train and the
26 Canadian National dealt with this as passenger train
27 service, which includes express and mail?

28 A. Well, I do not think there is any
29 problem about this, except a matter of mechanics.
30 At least I hope not. When we dealt with it we, in our



1 thinking, distinguished the train function from
2 the terminal handling function.

3 Now, the train function -- the functions
4 that are dealt with in the operation of passenger
5 trains -- are covered in chapter 8. And the terminal
6 function -- the running of the trucks that do the
7 pickup and the delivery and the platform work -- they
8 are functions we felt could best be handled in the
9 subsequent chapter of small shipments. If you put
10 the two together, we have, I suppose, the same sort
11 of figure that you would develop if you were making
12 the same study. It is a matter of dealing with it
13 in two chunks because passenger trains were being
14 studied in chapter 8.

15 Q. Now, dealing with your volume 2 I
16 think a number of points I have to cover have already
17 been covered by Mr. Sinclair, and I do not want to
18 touch upon those.

19 Now, you have already told Mr. Sinclair
20 that costs developed in the United States are used
21 as the basis of rate making? Costs developed by
22 the railroads, by the ICC?

23 A. When you say "costs", there are all
24 sorts of costs. I take it you mean many railroads
25 use rail form A itself?

26 Q. Yes.

27 A. Yes, sir, that is true.

28 Q. And you touched on this: that the studies
29 made by the Canadian railroads in this case are
30 satisfactory for the purposes they were used for?



1 A. I do not think I said that. I think
2 I said that I considered the technique used by the
3 Canadian lines to be superior to those used in the
4 rail form A treatment.

5 Q. Yes. And, then, will you follow one
6 step further and say they are satisfactory for the
7 purpose here?

8 A. No, sir, I do not feel that they are
9 satisfactory for the purpose here. But when I
10 say that, I do want to declare and not be misunderstood on
11 the significance of that comment. I am not
12 particularly challenging the accuracy of the figures.
13 I am challenging more the conceptual basis of the
14 study and their applicability to the work of a
15 Royal Commission.

16 Q. The conceptual changes you mentioned
17 have not been in use in the United States?

18 A. Well, they would not normally come into
19 use in any regulatory agency which has a historical
20 statutory basis of operation. These points that
21 I am dealing with are matters of policy which might,
22 in effect, lead to new legislation, conceivably.

23 Q. The point I was dealing with is that
24 these conceptual changes you suggest have not been
25 adopted in the United States?

26 A. Nobody has had a Royal Commission there,
27 either.

28 Q. But they have done a considerable
29 amount of costing of different traffics?

30 A. Well, as I mentioned in my preliminary



1 assessment and in the opening of volume 2, there
2 are different costs for different purposes: actual
3 costs or standard costs. And, customarily, we do
4 look at actual costs; we take the expenses and
5 separate them over the traffic that was handled, and
6 we get a certain answer, and its meaning and value
7 for that purpose.

8 Q. Getting back to this one point. These
9 conceptual changes that you suggest in these studies
10 have never been adopted in cost studies before the
11 ICC?

12 A. I would not go quite that far, without
13 specifying some of these points.

14 Q. Have they been adopted -- and tell me
15 in what piece they were used?

16 A. For example, this concept of standard
17 costs, or the use of a capacity concept, is one
18 that we have used. Mr. Sinclair asked me about
19 it in connection with this Seatrain matter. As
20 a matter of fact, now that I think about it we
21 did something like that in a divisions case, going
22 back a few years, around 1949, I believe it was,
23 where we were in a study of railroad divisions
24 between official territory in the south.

25 Q. Yes?

26 A. And in that connection I have suggested
27 to them that because of this problem of utilization
28 of plant being different in different areas that the
29 treatment of constant costs would be better handled
30 on a capacity ton to ton mile method rather than just



1 taking the traffic that happened to move in the
2 particular period of the study.

3 Q. Yes?

4 A. So that the question is very broad,
5 as you can appreciate, and there are different facets
6 to it. I would certainly agree with you that in
7 conventional costing these issues do not come up and
8 are therefore not a part of the ordinary decision-
9 making process.

10 Q. Therefore, these concepts are not
11 applied; in other words?

12 A. That is right.

13 Q. And in volume 2, page 6, you refer there
14 to the added traffic theory?

15 A. Yes, sir.

16 Q. Does the added traffic theory give
17 very short termed costs?

18 A. Yes, sir.

19 Q. And do you agree with me that you could
20 not use this theory in costing statutory grain for
21 movement to export positions?

22 A. I would not think it would be helpful
23 in this context for purposes of this Commission.

24 Q. Then, on page 9 of volume 2 the
25 statement is made:

26 "In doing so, we must always bear in
27 mind that the further away we get from the
28 direct and short run cost components
29 and the more we get into the long range
30 cost problem, the greater the uncertainty



1 and the more we must rely on the prorate,
2 the arbitrary factor, and general statistical
3 techniques."

4 Are direct costs used in long run costing?

5 A. I am not quite sure I understand
6 what you mean. I think the answer is yes, direct
7 costs are part of the total cost that we use, yes.

8 Q. And direct costs, such as fuel, that
9 is used in short term costing, and it is also used
10 in long term costing?

11 A. That is right. Yes, sir.

12 Q. Then, on volume 2, page 14, you state:

13 "The need to control costs, as a
14 means of protecting net revenue is
15 desperately urgent..."

16 Are you aware that on the Canadian National
17 cost control in the transportation field has been
18 in use for several years?

19 A. Well, I suppose we would have to
20 define our terms a little bit. All railroads, as
21 all companies, I think, do use cost controls. It is
22 a matter of the degree and the nature of the
23 refinements that are exercised and the techniques
24 that we are talking about here are still, as I said
25 in my statement, in their infancy, and I do not know
26 whether -- I am just not in a position to say that
27 the Canadian National has passed beyond the infancy
28 point in this regard.

29 I do not mean that critically, but it is
30 just that these are new and important techniques and



1 they have to be tried out and lived with before you
2 are really sure of what you have. And I am sure
3 that the operating officials of the Canadian National
4 feel the same way.

5 Q. Well now, you refer to prorating.
6 Would you define prorating as you have used it in
7 this quotation on page 16. You refer to it again
8 at page 16: "Prorating of joint costs".

9 A. Prorating, I would say, means spreading
10 costs on the basis of some external factor rather
11 than on the basis of direct knowledge of the slot
12 in which the expenses ought to go.

13 Q. Do you think that the use of multiple
14 regression techniques is prorating?

15 A. That is a very good question. That is
16 a very difficult question. I do not think I ever
17 really thought of it quite that way. I would be
18 inclined to say that regression is something in
19 between. It is not really prorating, and yet it is
20 not really costing, either, because you have to do
21 a number of things to data. You cannot take the
22 data just as it is. I would say it was somewhere in
23 between. It is not prorating and it is not direct
24 costing.

25 Q. Then, on page 19, line 6, you refer
26 there:

27 "We found that sections treated as
28 wholly chargeable to grain were actually
29 being curtailed while grain traffic is
30 still moving."



1 Where did you find this on the Canadian
2 National?

3 A. We -- incidentally, I would like to
4 fix that language a little bit there, as long as
5 we are on that point, before I answer your question.

6 The language is not perhaps as sharp as
7 it might have been. If we make that read:

8 "We found that tracks treated as
9 wholly chargeable to grain were actually
10 being taken up while grain traffic is
11 still moving",

12 I think that would read a little better.
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2 Now, what we did in developing this observation was to
3 write to our people in the field, that is the people in
4 the grain trade with a list of solely related facilities.
5 I believe that was limited to the Canadian Pacific. I
6 think the list was strictly something we got from Mr.
7 Stenason and, therefore, ~~their~~ comments would necessarily
8 be limited to that. There was not any Canadian National
9 in this particular study.

10 Q. I did not think so. Then, on page 19,
11 at line 13, you state:

12 "Thus, costs which normally would be
13 assigned to passenger service are
14 automatically kept in the freight column
15 and charged against any freight traffic
16 being studied."

17 Now, insofar as the Canadian National is
18 concerned can you name some of those costs to which you
19 refer?

20 A. The only one that comes to mind off
21 hand, since I am not as intimately familiar with the
22 details of Mr. Bandine's study as I am with that of Mr.
23 Stenason, is the handling of constant costs which are
24 prorated only over freight services rather than over all
25 service. I was suggesting here that that situation is
26 one which supports that assumption in that a determination
27 of whether it is proper to do that but merely with the
28 assumption that passenger cannot bear it, therefore,
29 there is no point in assigning it the way you otherwise
30 would.



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2 Q. That follows the decision that the
3 passenger is treated as an incremental service.

4 A. That is right, which is a non-cost
5 decision.

6 Q. Then, on pages 32 and 33 you are
7 dealing with switching miles variables there and do you
8 agree that switching trackage -- you will agree with me
9 that this is required for switching, certain tracks or
10 extra tracks are required for switching just to make the
11 switching trackage.

12 A. I think so.

13 Q. And would you agree that the maintenance
14 of that trackage is also required for your switching?

15 A. The maintenance of the tracks is
16 required for the switching.

17 Q. Yes, the money for the switching tracks
18 is also required in order to carry out the switching.

19 A. In part that is true except there is
20 a constant element that is not a function of the
21 switching itself. It is a puzzling question and maybe
22 I do not get what you mean. Is there more to it than I
23 have indicated?

24 MR. McDONALD: No, it is all right, it
25 fell into line. Thank you very much. Mr. Sinclair
26 covered the subject very fully and I do not want to
27 go over the ground twice.

28 MR. MacKIMMIE: Would it be preferable if
29 I do the re-examination preceding Mr. Gobeil?

30 THE CHAIRMAN: No, afterwards.



1
2 BY COMMISSIONER GOBEIL:

3 Q. Mr. Saunders, I have only a couple of
4 questions. Yesterday morning at the opening of the
5 hearings you, at the request of Mr. Sinclair, summarized
6 the main point of your report and you said there that
7 you thought of the government central agency which I
8 find on page 21014, line 16.

9 A. Yes, sir.

10 Q. You say:

11 "I suggest there could be one ~~at~~ some
12 central place at the Federal level which
13 would have the job of assessing and
14 evaluating total transportation needs for
15 all of Canada".

16 A. Yes, sir.

17 Q. So it means you see such an agency not
18 restricted to railway transportation.

19 A. Yes, sir.

20 Q. All means of transportation?

21 A. This would be strictly in the budgetary
22 field, evaluating budgetary proposals and what the effect
23 would be on government.

24 Q. You say a government transportation
25 policy group?

26 A. Yes.

27 Q. Policy does not include only budgetary?

28 A. No, but I am trying to distinguish it
29 from the regulatory work of the Board of Transport
30 Commissioners which is a very static function. I did not



1
2 feel this belonged under the Board.

3 Q. But it would be an agency which would
4 have regulatory power as far as the budget is concerned
5 or would it be advisory?

6 A. It would have to be an advisory group
7 responsible for making studies on the need of the
8 country for transportation and how much has been spent
9 on airways, for instance, and what the effect will be
10 on further expenditures on airways and airports as
11 against highways and waterways so as to be sure that
12 the money gets spent in the right place at the right
13 time in terms of economic need.

14 Q. On the following page, at line 14, you
15 say:

16 "I believe what is called for is a
17 separate agency to be given the
18 responsibility for drafting and putting
19 into effect a long range plan for
20 rationalizing the Canadian railways."

21 I was wondering about this agency, whether
22 it would be mainly railway activities because you
23 specify there railways. Would they do the same thing
24 for other forms of transportation?

25 A. No sir, I do not see it that way at
26 all. It seemed to me that this separate agency should
27 have a very special job working out this problem which
28 is peculiarly a problem of handling rail traffic in the
29 most efficient way. It has not anything to do with
30 competition with other forms of transportation, it is



1
2 strictly as between the principle railways.

3 Q. The only other point, Mr. Saunders,
4 and I hesitate to ask it, is on the cost of money. Unlike
5 my colleague to my right I do not know too much about it
6 and I could not get it clear although your discussion
7 with Mr. Sinclair lasted for quite a while yesterday.
8 I was just looking at it a few minutes ago and what I
9 had in mind is, for instance, starting at page 22158 and
10 up to 22161 -- at the last page I mention you refer to,
11 after this long discussion with Mr. Sinclair he seemed
12 to be inclined to think that you agreed with this $6\frac{1}{2}\%$
13 when he asked you:

14 "You are not disputing, I take it, that
15 the cost of money to Canadian Pacific is
16 $6\frac{1}{2}\%$ net?"

17 After a full page of transcript this part
18 was not clear to me and your answer does not make it
19 clear to me where you say:

20 "No, I am saying that witness Smith --"

21 But you did not say what is the cost of
22 money that you suggest in those three so well packed
23 pages, as you say. Is it $4\frac{1}{2}\%$?

24 A. Well, my point there is that you must
25 define the kind of cost of money you want and I am saying
26 that if we accept the idea that Mr. Smith had which is that
27 you have to consider all of the investments that is now
28 there and then ask how much money I have to make with
29 each part of it then it is $6\frac{1}{2}\%$. I do not question that
30 and I am perfectly willing to accept that as cost of



1
2 money under that assumption. Now, where I differ from
3 that, I do not feel it was necessary or proper or
4 meaningful to this Commission if the Commission has to
5 bind itself to that kind of a question. I do not think
6 it is necessary for the Commission to say "There must be
7 a return measured by cost of money on the whole property".
8 I just do not think that is a proper question.

9 I can put it, perhaps another way.

10 Q. I am simply asking you, you do not
11 suggest any figure to this Commission so as to enlighten
12 us, you simply say it is not necessarily $6\frac{1}{2}\%$?

13 A. Yes.

14 Q. But you do not make any --

15 A. My point is it is not $6\frac{1}{2}\%$ of the
16 investment, I would suggest. We did not get a chance
17 to complete this yesterday when I asked Mr. Sinclair
18 if he was not going to refer to my article in Railway
19 Age on this subject some years ago. We just never got
20 back to clarifying the point. However, the answer to
21 your question is that I do not think it is a matter of
22 figuring a percentage on a rate base. I think that is
23 an interesting number but not the one to look for. My
24 recommendation is that the railways should say "Here is
25 our long range capital program, we have these plans,
26 these are the things we want to do and it will take so
27 many millions of dollars or new capital from earnings or
28 from new borrowings or selling of stock. It will take
29 us so many dollars a year to do this job. Now, when we
30 have done this job we will have a good thing for the



1
2 people of Canada because we will have reduced our
3 operating costs, we will have improved our efficiency,
4 we will have a better railway system." Therefore, what
5 is really needed from the standpoint of policy, from the
6 standpoint of making a decision on what should be done
7 is a concept of how many dollars are needed whether it is
8 \$20 million dollars a year or \$80 million dollars a year.
9 That is the number that ought to be looked for. Once you
10 have that number -- let us say it is \$50 million dollars
11 a year or some figure that is in their minds as management
12 of what they feel the railway system ought to be doing.
13 Always that figure is in your mind. You can take that
14 figure and divide it by \$1 billion, 400 million dollars
15 and get any figure but as a practical matter nobody really
16 cares what percent it is on a certain base figure. We
17 are all interested in what the capital investment program
18 is. What I am suggesting is that that number has not been
19 told to you, I do not know what it is but I think that it
20 ought to be told to you. It also ought to be told to
21 you what the effect of that number is. When you have that
22 number you will see what the benefits are that will come
23 from it and the economies and all the improvements in
24 service and so on and so forth. That is what I am after,
25 a completely different approach to this.

26 Q. But could you give us that number and,
27 if so, why do you not give it.

28 A. Well, I cannot give you the figure
29 because I do not know what the plans and programs of the
30 railways are.



1
2 MR. SINCLAIR: Take the last five years
3 of the Canadian National Railways.

4 THE WITNESS: That is the plans and
5 programs--

6 MR. SINCLAIR: Extrapolate that?

7 COMMISSIONER GOBEIL: Q. That was the
8 next question I was going to ask after this one. I
9 got the impression that you feel that the cost of money
10 of the Canadian Pacific, 10.38 was too high on its net
11 return earning of 4. something.

12 A. Yes, sir.

13 Q. And the cost of money of a sound and
14 solid organization should be less.

15 A. Yes.

16 Q. Well, we have to deal with both
17 railways according to what you developed yesterday so
18 what cost of money should we give to the Canadian
19 National? It should be a lot different from the
20 Canadian Pacific.

21 A. Well, their problems are different
22 and I think it illustrates why this rate return maybe
23 is not very helpful that they are using in their
24 studies. I think the cost of money -- well, I do not
25 like to see it thought of as cost of money, that is
26 sort of a technical term. I think what is really required
27 in the case of the Canadian National is a knowledge of
28 how many dollars per year are required to improve their
29 operation on a long term basis. Now, they may be
30 operating at a deficit which means you cannot calculate



1
2 the rate of return of it but it ought to be able to say
3 how many dollars a year are needed for capital programs
4 and that is the figure you started with.

5 Q. I think you said that you admit that
6 the cost of money should not take into consideration the
7 net earning, that is two different things. That is what
8 you said yesterday, is it not?

9 A. Well, I am saying that in effect it
10 does. When you calculate it the way they did it does
11 reflect the earnings and if you have poor earnings you
12 have a high cost of money. I do not find that a very
13 useful number after I calculate it just for that very
14 reason. I think I mentioned that we had done this on
15 one railroad where the requirements would be a 25%
16 return because they had a very bad earnings record and
17 you would not go out and ask for 25% return.

18 Q. You see, Mr. Sinclair asked you
19 yesterday:

20 "What I said to you, Mr. Saunders, is
21 that return earned and cost of money
22 were very different."

23 A. Well, that certainly is true."

24 Further on you say:

25 "When we talk about costs we are not
26 talking about revenue need."

27 You said you could not find the figure for
28 cost of money because you did not know what the plans of
29 the C.P.R. was or the C.N.R. and they would be the only
30 ones who knew what they had in mind. That is what you



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told me.

A. Yes.

Q. Well, no one in this Commission can get an enlightenment from anybody as to the cost of money because nobody knows what they have in their head.

A. No, not entirely. It means that you have room to consider, after you have seen the calculations, the numbers written down and all added up very carefully and checked and it is all accurate, then you still have room to exercise judgment as to how much money should be earned by the railway as a whole and what its needs may be. In other words, somebody has a right to exercise judgment and I believe this Commission has that right.

Q. And someone else outside of the railways, too.

A. Yes.

Q. I mean, you could have done that too?

A. Well, I could have done it but I would have preferred to have done it in consultation with the railways as to their long range programs.

Q. In this thing that Mr. Sinclair spoke of where you were examined by a man named Freeman that you said you arrived at 6%, did you work with the 6% with the railway over there or alone?

A. No, the 6% is merely a figure that the railroads have urged they would like to earn. It is not based on its mechanical calculation, it is simply a standard they would like to have.

Q. But you do not see anything wrong with



1
2 It.

3 A. No. As I say, you can accept any
4 standard you want but you have to decide whether that
5 is what you want the industry to live with.

6 Q. Well, I cannot find the place now but
7 I thought you went further when I read it a few minutes
8 ago and I thought you said the 6% was not only wrong but
9 was perfectly right.

10 A. It is merely a standard they urged
11 they would like to have and they have the right to urge
12 that just the same as C.P. has the right to urge 10%.

13 MR. SINCLAIR: That they are not comparable,
14 surely, it is net to net.

15 THE WITNESS: Well, 6½% would be better.

16 COMMISSIONER GOBEIL: That is all, thank
17 you.

18
19 BY COMMISSIONER ANSCOMB:

20 Q. Mr. Saunders, I have no intention of
21 asking any questions but I am rather interested in this
22 when you use the expression "poor earnings require
23 naturally high cost of money". I would agree with that
24 in the ordinary commercial field or industrial life of
25 the nation but you would not say that applies in the case
26 of these two railways, would you?

27 A. Well, unfortunately, that is the
28 mechanics of the procedure.

29 Q. Let us get away from the mechanics,
30 let us get the facts of life. Would you think that is



so?

A. I think it would be wrong to predicate it on that particular point. I agree with you 100% it is a mistake to determine the cost of money by looking at stock prices relative to earnings and decide from that what rate of return must be obtained when the company you are looking at has a poor earnings record.

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1 Q. In this case I agree with what you say
2 about this poor earnings business. If you have poor
3 earnings, you can't borrow?

4 A. That is right. It gets to a point
5 where you are up to 75 per cent or 100.

6 Q. But there you have an amazing situation
7 with one railway running at a deficit and another
8 one running at a profit, but the deficit railway
9 can actually borrow money, I suggest to you, because
10 of the circumstances existing, cheaper than the
11 one making a profit because it has got the power of
12 the nation behind it?

13 A. That is true.

14 Q. And everything they borrow has just
15 got the Government of Canada on the back of it?

16 A. That makes it a difficult situation
17 as between the two railways, but you raised this
18 point, I think, very early in the proceedings, Mr.
19 Commissioner, that maybe some pruning is required
20 in order to break through this living with a deficit
21 and having this very difficult competitive situation
22 between the two railways.

23 Q. I take it you would agree with me that
24 any industry, whether it is railways or anything else,
25 has a perfect right to expect under a free enterprise
26 system an adequate return on its equity capital,
27 whether that equity capital came in the first place --
28 and you might define it one way and I might define
29 it another way -- whether this money was subscribed
30 by the shareholders or ploughed back earnings into the



1 industry which in the normal way could have been taken
2 out by dividends. Now, they are entitled to a proper
3 return on that investment, are they not?

4 A. I am afraid not, sir. This, I think,
5 is the key problem we have, because there are some
6 industries -- and let us not think about regulated
7 industries, but people in business.

8 Q. Yes.

9 A. I think you will agree that there are
10 some companies which make a 20 per cent return and
11 thrive and prosper and grow very rapidly, and there
12 are other companies which make little or no return
13 and go out of business. The horse collar industry
14 is not with us any more. They could have stood
15 on the roof tops and shouted about the right to make
16 a 15 per cent return and charged prices that would
17 have given them, theoretically, a 15 per cent return,
18 but they would not have got it. The reason for that
19 is important -- the reason they would not have got
20 it, and the sulphur industry, as Mr. Sinclair said,
21 may have got it is that the circumstances of the
22 demand for the product, the amount of plant it has
23 to offer and whether that plant and facilities and
24 product are needed by the market place. Our
25 problem in the regulated industry is, unfortunately
26 for the railways and others who are regulated,
27 that the plant is there, and we say we have to get
28 a return on what we have, but the market doesn't think
29 so. The market is saying, "I don't like railways. I
30 like trucks and waterways and aeroplanes." Some



1 philosopher said, "I exist, and therefore everything
2 is supposed to stop." Just because I am here does
3 not mean I have a right to a return on what I have,
4 from an economic point of view. I may just happen
5 to be in the wrong business.

6 Q. Well, the answer to that is free them
7 and let them fight in the competitive world just
8 the same as everybody else, and then, if they fail,
9 that is that.

10 A. There is a lot to be said for that.

11 Q. But when you control them and keep saying,
12 "You can't do this, and you can't do the other, and
13 you can't have a return", or something else, is that
14 logical?

15 A. We are in a very difficult bind
16 because of history.

17 Q. I am not so much interested in history;
18 that is fifty years ago and you ought to forget it
19 and deal with the situation at the moment.

20 I have only one other thing I want to ask
21 you, and only because Mr. Gobeil discussed it with
22 you, and that was the suggestion of the new Board
23 or new control. Your idea was not a planning
24 board that would deal at a national level -- that
25 would deal with all types of transportation? That
26 was not your view?

27 A. It would deal with all transportation,
28 but it would not be administering transportation.
29 That is the point.

30 Q. But it would plan everything whether



1 it was a matter of an airline here or less railways,
2 or if there is a canal it should be left to the
3 canal -- do you mean that type of planning?

4 A. Not in terms of the broad administrative
5 decisions. I think that should be left in the hands
6 of the people concerned. I mean from the standpoint
7 of total government policy. Do we want to promote
8 airways, or a certain amount of waterways, and,
9 making that decision in the light of all the transport
10 we have in the country, railways included.

11 BY COMMISSIONER MANN:

12 Q. Mr. Saunders, we might as well get
13 this board business into one neat little package
14 on the record, and I will ask you about it. I am
15 a little unclear as to what you have in mind because
16 I seem to be trapped here by a contradiction in two
17 statements you made at pages 21014 and again at
18 21015.

19 Your idea, as I understand it, is that
20 there should be a board at the federal level which
21 is in essence a policy group, and I now quote from
22 page 21014: "Such an agency would be extremely
23 valuable because it would be in a position to add
24 up the total requirements of Canada for all forms
25 of transportation, air, water, highway and rail
26 and recommend to Parliament the kinds of expenditure
27 programs that ought to be made assessed to minimize
28 waste in the total transportation program of the
29 federal government."

30 Here you have what in essence is a policy



1 group which recommends to Parliament. We don't want
2 to go into the constitutional steps in the Canadian
3 context, but on the next page ---

4 A. I perhaps have left out a step here.

5 Q. Well, this is not the essential part.
6 On the next page I find this statement starting at
7 line 7:

8 "This first group..." (This is the
9 one we have just mentioned) "...is
10 rather a policy not a budgetary advisory
11 and recommending group but, as I mentioned
12 there is this matter of excess capacity."

13 A. I am afraid there is something wrong
14 with the language there.

15 Q. I got a little tangled up there.

16 A. I don't know how that could read that
17 way and be meaningful. I would suggest we
18 clarify it this way: this first group is rather
19 a policy and a budgetary advisory and recommending
20 group. And then you start with a new thought --
21 "But, as I mentioned, there is this matter of
22 excess capacity", and that leads to this other
23 matter.

24 Q. I think we have got them singing in
25 unison now. In this first group what you have in
26 mind, I suppose -- and tell me if my understanding is
27 correct or not -- is some group which assesses the
28 overall transportation needs of the country?

29 A. Yes.

30 Q. In order to assess the transportation



1 needs of the country I suppose they would have to
2 be in full knowledge of the economic picture of the
3 country; they must have long range forecasts, etc.
4 Then, must they not also have rather detailed
5 knowledge of the costs of the various agencies of
6 transportation? If that is not fair, I will go
7 on --

8 A. Do you mean by that operating costs --
9 unit costs?

10 Q. Yes, let us put it on unit costs.

11 A. In part I think that would be true.
12 I would not see it, though, as having any administrative
13 responsibility for this.

14 Q. No, we are on the recommending level.

15 A. The Board of Transport Commissioners
16 would be in very close touch with the details of
17 the railways, and there is an airways board that would
18 know about matters concerning them, and so forth.
19 They would be each doing their own separate jobs
20 and would be experts, but there would be this central
21 group which could call on them in making its
22 composite story .

23 Q. I don't think I have quite got across
24 to you what I mean. Supposing there is need for
25 a transportation link from A to B and there is no
26 transportation there now, but there is a need based
27 on the economic forecasts that have been received.
28 The policy group, I suppose, would be charged with
29 the task of determining what type of transportation
30 link should go in -- should it be rail, air or



1 highway. Now, in order to come to an intelligent
2 decision on this matter do they not require unit
3 costs of the various agencies of transportation?

4 A. Well, that would be true unquestionably,
5 and my only reservation was that I don't see such
6 an agency as having the day to day responsibility
7 for compiling and confirming such figures. That
8 should be in the hands of the people more intimately
9 concerned with it rather than a policy group.

10 Q. And that requires each of the regulatory
11 agencies must have a very strong cost finding section,
12 doesn't it?

13 A. Oh, I think that would follow, that
14 there should be an economic analysis unit as a
15 minimum in each of the agencies because without that
16 each would be operating just as competitively with
17 that information as they are without the policy
18 group.

19 I am a little troubled about something:
20 you have suggested something I hadn't anticipated,
21 and while I have no objections to it I did want to
22 clarify my position in it. I didn't have in mind
23 that this agency would step into private decisions.

24 Q. Oh, no.

25 A. In other words, if a railway wanted
26 to go out and build a line with its own money, just
27 like anybody else goes out and builds a house, or
28 anything else, that is that particular company's
29 good or bad fortune. However, I saw it more as
30 among the government departments to see to it that



1 they were coordinated.

2 Q. Yes, I understood it that way. What
3 you have in mind is a group which can advise the
4 government intelligently on public investment in
5 transportation?

6 A. Yes, that is exactly the best way to
7 put it.

8 Q. Your second group is a completely
9 different animal. I suppose it is a terminable group?

10 A. Yes, it has a specific function.

11 Q. And once that function is discharged
12 the group ceases to operate?

13 A. That is my thought.

14 Q. Just so the record will be clear, that
15 is the group which is to be charged with the
16 responsibility of drafting and putting into operation
17 a long term rationalization program?

18 A. Yes sir.

19 Q. Can it do that in a complete vacuum?
20 In order to evolve a long range program of rationalization
21 mustn't it be in full possession of the facts concerning
22 alternative transportation agencies? Can it operate
23 in a vacuum?

24 A. It certainly can't operate in a vacuum,
25 because it is quite clear that some of the decisions
26 to rationalize might be affected by whether there was a
27 choice available other than an alternative railway.
28 Some of the decisions would be merely a matter of
29 substituting one rail line for another. But other
30 forms could very well require knowledge as to the



1 availability of highway or other forms of
2 transportation. Certainly this agency would by working
3 closely with, let us say, the provincial government
4 people in connection with highway programs be in
5 a position to cast some light on that and would
6 certainly have to.

7 Q. And similarly your first group,
8 which is the public investment policy group, would
9 come into play here too, wouldn't it, because the
10 rationalization of a segment of railway plant may
11 require the construction of new alternative facilities
12 through public money?

13 A. I am not so sure as to the practical
14 political reality there, sir. I can't speak with
15 any sense of assurance about Canadian politics, but
16 I would personally -- and that is the best I can
17 offer -- I would personally hesitate to have this
18 federal group called in to evaluate some local
19 situation as to whether a twenty mile highway was
20 needed or was not. I would be inclined to keep
21 them on the overall policy level.

22 Q. You would find a lot of co-hesitators?

23 A. I imagine so.

24 Q. There is one other matter, and this
25 may be an unanswerable question. I made two notes
26 on the same point. Yesterday, I believe it was,
27 you said to Mr. Sinclair that further refinements
28 are essential in the multiple regression technique.
29 Just a few minutes ago you said to Mr. McDonald
30 that the technique is still in its infancy and it has



1 to be lived with until you are sure of what you
2 have. I think that is probably a fair representation
3 of the two statements you made on that point.

4 A. Pardon me, they were not quite on
5 exactly the same point. My answer to Mr. McDonald
6 dealt really with the use of cost controls for
7 management purposes some of which do include
8 regression techniques. My answer to Mr. McDonald
9 was on a broader area than the maintenance discussion.

10 Q. Well, perhaps I should keep it to
11 what you said to Mr. Sinclair.

12 MR. SINCLAIR: Do you have the page number,
13 Mr. Commissioner Mann?

14 COMMISSIONER MANN: Unfortunately I haven't.
15 All I have is my note which, having been taken at
16 the time, is, I suppose, rather inaccurate.

17 Q. Maybe this is an unanswerable question:
18 can you tell us anything about what further refinements
19 you think are necessary, and can you delineate the
20 area in which these refinements may take place, and
21 can you give us any estimate of the time involved?
22 It is, maybe, unanswerable. If so, we will leave it.

23 A. Confining it to the maintenance field
24 now?

25 Q. Whatever qualification you want to put
26 on that.

27 A. Well, in the field of maintenance for
28 illustration, I had a question put to me yesterday
29 which I want to answer before I get through. Mr.
30 Sinclair put what seemed like a very complicated



1 thought to me about topography, and that would be
2 perhaps a useful illustration of it. I think men of
3 good will could agree that topography must have
4 something to do with maintenance, and our information
5 thus far is not very clear cut on it. It is
6 fuzzy. I think it is an area that would be very
7 valuable to develop more information about, both
8 from the standpoint of costing as a rate making
9 device and also, from my point of view more important,
10 the standpoint of its value as the technique of
11 managerial control, because I feel there may be
12 tremendous opportunities of economizing if we knew
13 more about what caused things to happen. How long
14 will it take to do this? I suppose if we were not
15 in this litigious situation, if there is such a word,
16 where we are being cross-examined and so forth,
17 and if we were just sitting around a room as people
18 talking about a problem, it may be easier to hit
19 on a time-table and a direct solution to this.
20 But it is my own feeling it is not that difficult a
21 problem, and that the engineers and the statisticians
22 on both these railways could very well come up
23 with something useful, constructive, valuable in a
24 year or so and have it really meaningful. Assuming
25 we were to start now on such a plan, I would expect
26 if I came back here a year from now and discussed it
27 with Mr. Bandeen he would have an awful lot to tell
28 me about maintenance that we don't know today. That
29 would be an illustration of the sort of thing I mean.
30 You can apply that in the field of switching and



1 maintenance, separation of freight car appraisals,
2 for example, by type of car and by distinction between
3 heavy and light repair costs, and why should they
4 repair and how do we program them? Work has
5 been done in this field; I am not suggesting something
6 that is entirely original. It is not. I am talking
7 about the emphasis. To try to find that answer
8 using statistical and other techniques is a fairly
9 new thing, and we are really just scratching the
10 surface of that. That is a couple of illustrations.

11 COMMISSIONER MANN: Thank you very much
12 indeed, Mr. Saunders.

13
14 ---Short recess.
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1
2 THE CHAIRMAN: Order, please.

3
4 RE-EXAMINATION BY MR. MacKIMMIE:

5 Q. Mr. Saunders, I just have a couple
6 of very general questions, sir.

7 The other day, as I appreciated your
8 evidence, there may be some indication -- I believe it
9 is at page 21062 -- that the railways must have light
10 density if they are to have long lines. Is that what
11 you meant to imply?

12 A. No, sir. I did not mean to give that
13 impression.

14 The answer to that whole discussion is that
15 it is the tonnage available to be moved that determines
16 the density because as to any particular mile of track
17 it is the tons hauled that determines the density.
18 Many tons may give a long distance haul which may explain
19 why you could have long average hauls, but they would not
20 have anything to do with whether the density were light or
21 heavy.

22 Q. Yes.

23 Now, in volume 2 -- and I am dealing
24 specifically with some of your comments with reference
25 to equations 14 and 15, and I would invite you to
26 comment on the distinction between equations 14 and 15
27 on the use of weighting.

28 A. We had some extended discussion
29 yesterday with Mr. Sinclair about the method we used
30 for weighting the different variables to produce composite



1
2 results in equation --which led up to equation 14. And
3 there was a criticism with which I indicated we had a
4 basic disagreement in accordance with advice we had
5 received from our experts, and I merely wanted to point
6 out in that connection that even if the --

7 MR. SINCLAIR: That is 11 and 12. I
8 thought counsel said 14 and 15.

9 THE WITNESS: Yes, sir, but the weighting
10 concept applies all the way through the final equation:
11 the principle of weighting using the prior statistical
12 data. And I merely wanted to point out that even if we
13 were wrong about the weighting -- and I am satisfied
14 that we are not -- but even if we were wrong that would
15 not affect the results in equation 15 which do not depend
16 on that and which, in effect, confirms generally the
17 observations we made previously with the weighting.

18 MR. MacKIMMIE: Mr. Chairman, I would like
19 to have on the record some material that was supplied.
20 Perhaps I could read these into the record.

21 MR. COOPER: This is information which is
22 supplied in reply to a question which appears in the
23 transcript?

24 THE WITNESS: Yes, sir.

25 THE CHAIRMAN: Which was asked for?

26 MR. MacKIMMIE: Yes, it was asked for --
27 one by Mr. Sinclair, and one by Mr. Mann.

28 I think counsel understands that the
29 letter of October 12 was a letter addressed to Mr.
30 Sinclair. On page 16087, my learned friend, Mr. Sinclair,



asked for the information, which is volume 94, sir.

The text reads:

"Mr. Sinclair: So that we may get together,
do you have the Burlington figures there?

The Witness: Not handy is the answer.

Would you like us to supply that, Mr.
Sinclair?

"Mr. Sinclair: Yes, I would like to see
them."

That is what this is, sir.

October 17, 1960.

Mr. I.D. Sinclair,
General Counsel,
Canadian Pacific Railways,
Montreal, P.Q., Canada.

Dear Mr. Sinclair:

The following tabulation is submitted
for your information in response to your
request of September 26, 1960:

Traffic Characteristics

of

Chicago, Burlington and Quincy Railroad,
1958.

(To supplement Table V - 3, Vol. 1, "The
Problems of the Canadian Railways" for the
Royal Commission on Transportation)

- | | |
|--|------|
| 1. Miles of Road (average for year) | 8730 |
| 2. Freight Gross Ton-Miles per Mile
of Road (000) | 4208 |
| 3. Freight Train-Miles per Mile of
Road | 1392 |



4. Average Weight of Train (Tons) 3023

Very truly yours,

(Sgd) William B. Saunders.

cc: F.W. Anderson
A.G. Cooper
R.A. MacKimmie
John Stenason

And the other was a letter to Mr. Mann
dated October 17. The text of it reads:

October 17, 1960.

Mr. H.A. Mann,
Royal Commission on Transportation,
Daley Building,
P.O. Box 1173,
Ottawa, Ontario, Canada.

Dear Mr. Mann:

In response to your request of September
26, 1960, for miles of road abandoned by
U.S. railroads since 1920, the attached
tabulation is submitted.

Very truly yours,

(sgd) William B. Saunders

cc: F.W. Anderson
R.A. Bandeen
A.G. Cooper
R.A. MacKimmie
John Stenason.

Now, Mr. Chairman, this is the last public
appearance of probably Mr. Saunders and myself before
this Commission, and before leaving I would, on behalf of
Mr. Saunders and his staff as well as the organizations
that I represent, like to thank railway counsel and their



1
2 Mr. Stenason and Mr. Bandeen for the cooperation we have
3 had. Admittedly, we may have asked for things, sir,
4 in a form a little bit tough for them and I do not want
5 at all to be critical, but I appreciate very much the
6 assistance that was given these organizations. While we
7 had our quarrels, we are completely satisfied with the
8 treatment we received.

9 I also would like to publicly on the record
10 thank the Commission staff and its counsel for the
11 assistance that was rendered by them, by Mr. Saunders and
12 his associates as well as the grain organizations. Thank
13 you, sir. Those are all the questions I have.

14 THE CHAIRMAN: Well, thank you Mr. Saunders.

15 THE WITNESS: Thank you, gentlemen.

16 THE CHAIRMAN: We will adjourn until
17 Monday morning at 10 a.m.

18
19 -- Adjournment --
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Hon. C. P. McCreery

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

130

DATE

16 JAN 1961

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I N D E X

Page No.

BANKS, R.L.

Cross-examination
By Mr. Sinclair

22287

Report on Cost Conference on
Memorandum No. 2

22275

NO EXHIBITS IN THIS VOLUME



ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Offices,
Ottawa, Ontario, on the 16th
day of January, 1961.

---O---

COMMISSION

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Major N. Lafrance Assistant Secretary

---O---



Ottawa, Ontario,
Monday, January 16th, 1961.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order please.

MR. MAURO: Mr. Chairman, before my learned friend commences cross-examination I wanted to record something that transpired in the New Year's honour list in Winnipeg. I am sorry that I was not here for the hearings of the Quebec brief, but the transportation problems in Canada were such that they did not have any space available, from a little place such as Winnipeg to Ottawa. Therefore, I could not make it. Had I been here, I certainly would have noted on the record that Her Majesty the Queen in the Right of the Province of Manitoba in the New Year's honour list honoured one of our group here in the person of Mr. Sinclair, the Vice-President of the Canadian Pacific Railway. It is said that a Queen's counsel is one of Her Majesty's counsel learned in the law. On that basis alone, my learned friend would qualify, although at times many of us on the other side of the argument had questioned the degree of learning in a particular subject. It is also said that Her Majesty the Queen, having named one of Her counsel, has the right to call upon them for assistance in matters in which Her Majesty has an interest. As a member of that bar, I say that we are honoured to have Mr. Sinclair associated with Her, and as a citizen in Manitoba I feel satisfied that Her Majesty is going to be well defended whenever Mr. Sinclair is called upon to assist Her. I



1
2 congratulate him as a fellow member of the Manitoba Bar.

3 THE CHAIRMAN: We have already noted it on
4 the record that we have Mr. Sinclair, Q.C., here now.

5 MR. FRAWLEY: Mr. Chairman, the record might
6 be somewhat bare either because I was not here or I did
7 not know about it; it was not sufficiently published. I
8 was not aware at the appropriate time that this great
9 honour had come to my learned friend, Mr. Sinclair. I
10 learned about it afterwards and I privately congratulated
11 him, but I certainly would like this record -- particularly
12 in which I have taken some small part -- to show that I,
13 too, join with my friend Mr. Mauro and offer my
14 felicitation to Mr. Sinclair that his home province of
15 Manitoba, that he has got a long piece away from since
16 he has installed himself in such important places as the
17 Canadian Pacific executive offices in the Windsor station
18 -- but, in any event, it is very nice to see one's native
19 province confer honours in that way, and I very sincerely
20 join with everyone in congratulating Mr. Sinclair on this
21 honour.

22 THE CHAIRMAN: I think we should hear from
23 Mr. Sinclair.

24 MR. SINCLAIR: I wish most sincerely to
25 thank my friends Mr. Mauro and Mr. Frawley. I do look
26 upon this as a great honour and I am very proud to have
27 it.

28 THE CHAIRMAN: You realize how sincere it
29 is?

30 MR. SINCLAIR: I certainly have found that



1
2 in matters that do not particularly affect their clients
3 that they are people whom you can rely on, and in so far
4 as the disabilities that my friend Mr. Mauro had in not
5 being able to arrive here because of no space being
6 available, this is but another indication of the effects
7 of obligations and limitations imposed upon transportation
8 agencies in this country.

9 MR. MAURO: I am supporting that.

10 I now call Mr. Banks.

11
12 ROBERT L. BANKS, recalled.

13
14 MR. MAURO: I understand, Mr. Banks, that
15 you have some comment to make arising out of some of the
16 material that is presently before the Commission.

17 MR. COOPER: Before Mr. Mauro commences his
18 remarks, I have in my hand the report of the Chairman of
19 the cost conference on memorandum No. 2 submitted on
20 behalf of the government of Manitoba and Alberta by Mr.
21 Banks, and I should like this report taken into the
22 record in accordance with the ruling of the Commission
23 contained in volume No. 80 at page 14070 and succeeding
24 pages. Copies of this report setting out the points
25 of agreement and disagreement have been furnished by
26 my learned friends counsel for Manitoba and Alberta, and
27 have also been available to the cost experts concerned.
28
29
30



Report on Cost Conference on Memorandum # 2
On Behalf of the Government of Manitoba and Alberta.

Submitted by Mr. R.L. Banks

The page references which follow are in the first place to the pages of the memorandum submitted by Mr. Banks prior to his appearance before the Commission. The second reference which follows is to the transcript of the Commission hearings. The line references are the same in each case.

Points of Agreement - The following changes were agreed:

- 1) p. 1
p. 19206
- 2) p. 34,
p. 19239, lines 1 to 22
- 3) p. 19,
p. 19224, line 21 - substitute "traced to"
for "allocated between"
- 4) p. 20,
p. 19225, line 19 - remove "large"
- 5) p. 20,
p. 19225, line 20 - remove "deliberately"
- 6) p. 3
p. 19208, line 19 - the railways object to
exclusion of milling-in-transit. It was
agreed however that this point is more
suitable for argument by counsel than for
discussion at the Cost Conference.



- 1 7) p. 4,
2 p. 19209, lines 13 to 22 - the comments given
3 in point 6 apply.

4 Points of Disagreement.

- 5 8) p. 2,
6 p. 19207, line 2
7 8) p. 20,
8 p. 19225
9 p. 34
10 p. 19239 - in each of these cases the railways
11 find the references to imprecision and to
12 arbitrary and fictional opinions of cost
13 abhorrent.
14 9) p. 3,
15 p. 19208, lines 1 to 6 - the railway objects
16 to the claim that the costs of moving grain to
17 export positions have been overstated.
18 10) pp. 4 to 7,
19 pp. 12910-12 - The Canadian Pacific disagrees
20 with the figure for minimum track maintenance
21 and the method by which it is determined.
22 They believe that a figure \$742.52 under-
23 estimates the minimum costs and will file
24 evidence in support of their contention.
25 Evidence on the United States experience
26 was filed with the Commission staff and are
27 to be examined by the Canadian Pacific
28 representatives before return to Mr. Banks.
29
30



1 11) pp. 7 to 13,

2 pp. 19212-19218 - The fundamental objection
3 of Mr. Banks to the Canadian Pacific estimate
4 of car days chargeable to study traffic is
5 that the railway has charged all idle days
6 (on-line), less 11 per cent of the time which
7 the cars spend off-line, against the active
8 car-days on-line. The first point at issue
9 is the appropriateness of the 11 per cent
10 allowance. The second point at issue is the
11 extent to which idle days on-line should be
12 charged to days off-line. These disagreements
13 are similar to those reported under point 50
14 of the memorandum on the proceedings of the
15 Cost Conference on Volume 2 of the Submission
16 to Mr. W.B. Saunders.

17 12) p. 7,

18 p. 19212 - line 25 - The Canadian Pacific
19 Railway wish to check the figures.

20 13) p. 8,

21 p. 19213 - line 1 - The Canadian Pacific
22 believes that the statement here is misleading
23 since one number refers to active days and
24 the second refers to calendar car days.

25 14) p. 8,

26 p. 19213 - line 26 - The Canadian Pacific
27 believes that the number 1,470,604 reported
28 as Item 4 is not the number which it purports
29 to be. Discussion on this point brought
30 the Canadian Pacific and Mr. Banks closer to



1 agreement. Mr. Banks agreed that this
2 figure should be changed to 2,391,000.
3 Discussion on the remaining discrepancy has
4 been continued by correspondence and the
5 final position of the parties has not yet
6 been reported.

7 15) p. 10,

8 p. 19215 - line 2 - The Canadian Pacific
9 argues that it has not departed from
10 established practice in that the use of rail
11 form A, which is based on active car days,
12 over which all idle time is apportioned, is
13 in principle, in the opinion of Canadian
14 Pacific, the same method as developing the
15 costs on a calendar car basis when an idle
16 allowance is added to the active car days of
17 one particular category of traffic.

18 16) p. 11,

19 p. 19216 - line 25 - The Canadian Pacific
20 argues that even were they to accept Mr.
21 Banks' arguments, which they do not, the
22 idle ratio should be 44 per cent not 39.3
23 per cent.

24 17) p. 12,

25 p. 19217 - Item E - The Canadian Pacific
26 argues that the 23 cars constitute too small
27 a sample to allow one to reach a conclusion.

28 18) p. 13,

29 p. 19218 - line 2 - The Canadian Pacific will
30 examine the clerical errors which are referred



1 to and will report the results of this
2 examination to the Commission staff and Mr.
3 Banks.

4 19) p. 13,

5 p. 19218 - line 8 - Canadian Pacific objects
6 to the statement that they have over-stated
7 the number of car days attributable to grain.

8 20) p. 14,

9 p. 19219 - line 24 - The Canadian Pacific
10 objects to the expression "open to question".

11 21) p. 15,

12 p. 19220 - lines 1 - 10: In general, the
13 Canadian Pacific supports the estimated 16
14 per cent as an estimate of inspection costs
15 because they argue that inspection is as
16 important and is carried out as frequently
17 in Canada as in the United States.

18 In Particular:

19 i. The Canadian Pacific argues that the
20 method which was used has provided the
21 more conservative estimate since the
22 cost of inspection has been spread over
23 a large number of cars and has therefore
24 reduced the unit costs.

25 ii. The Canadian Pacific recognizes that
26 there are fewer interchanges but asserts
27 that inspections take place in any case
28 and that therefore the number of
29 interchanges is irrelevant.
30



1 iii. The Canadian Pacific argues that
2 although the statement given is true it
3 is irrelevant.

4 22) p. 15,

5 p. 19220 para. (b) - The Canadian Pacific
6 believes that the method used has been
7 conservative in determining the cost of moving
8 grain.

9 23) p. 15,

10 p. 19220 para.(c) and para. (d) - The
11 Canadian Pacific objections to these paragraphs
12 (a) and (b).

13 24) pp. 16-18

14 pp. 19221-23 - The main contention between
15 parties concerned is the variability of the
16 expense with the traffic. The issue appears
17 to hinge upon the length of time with which
18 one is dealing in this analysis, specifically
19 on the last part of page 16 (19221). The
20 Canadian Pacific maintains that if one
21 examines the pattern of car utilization with
22 an appropriately long adjustment time that
23 there is a high correlation between car
24 ownership and traffic and objects to any
25 inference that may be drawn that the
26 observations indicate an improper use of
27 fleet.

28 25) p. 17

29 p. 19222 - line 17 - Both Canadian Pacific
30 and Canadian National argue that the pattern



1 and trend cannot be inferred from the
2 information stated.

3 26) pp. 19-22

4 pp. 19224-27 - In general, the Canadian
5 Pacific disagrees with the point taken that
6 it is difficult to assign costs to
7 particular services performed.

8 27) p. 19, line 2

9 p. 19224 - the C.P. objects to the word
10 "major".

11 28) p. 20, line 18

12 p. 19225 - The C.P. will not agree that any
13 segment of the grain movement is run as
14 filler for time freights. On the other hand,
15 it would not endorse the statement that the
16 Canadian Pacific did not move any segment
17 of the grain traffic on time freights. It
18 argues instead that the purpose of running
19 grain on time freights has to do with
20 general cost problems, and the general
21 requirements of the railways.

22 This does not appear to disagree with the
23 Banks position as found in p. 21 (19226)
24 lines 3-11, which appears to be that by
25 following this practice total operating costs
26 of the railroad are reduced and that there
27 is no disadvantage to the grain trade in
28 using cars of grain in this fashion but
29 that symbol trains run with reduced trailing
30 weight in order to achieve schedules and



1 speeds required to service other traffic,
2 and that the additional cost of moving grain
3 in symbol trains rather than in "drag", or
4 full tonnage trains is properly chargeable to
5 non-grain traffic,

6 29) pp. 20-22

7 pp. 19225-27 - The Canadian Pacific objects
8 to the main contention of these pages. They
9 argue that it is wrong to cost grain as though
10 it moves in maximum tonnage trains or in fact
11 to cost any category of traffic under
12 hypothetical operating conditions. The cost
13 of moving a category of traffic should be
14 developed on the basis of the operating
15 conditions under which the traffic moved,
16 in the opinion of the Canadian Pacific.

17 On the other hand, the Canadian National
18 assumes that all grain moving on the main
19 line moves in drag trains but argues that
20 the average weight of drag trains should
21 be the actual, not the constructed maximum
22 weight. Mr. Banks is willing to accept
23 the Canadian National position provided that
24 the reductions from maximum tonnage were made
25 because of operating conditions such as, for
26 example, weather.

27 30) pp. 22-24

28 pp. 19227-29 - The Canadian Pacific agrees
29 that there are anomalies in the data and is
30 therefore prepared to return to a system



1 average unit cost basis. As decided at the
2 conference, new estimates resulting from
3 this decision are to be submitted to the
4 Commission staff and to Mr. Banks.

5 31) p. 24

6 p. 19229 - Section 8 - It is agreed that the
7 apparent discrepancy between the claims paid
8 by Canadian Pacific and Canadian National
9 results from a difference in the reporting
10 practice since the Canadian Pacific figure
11 includes a charge for administration of
12 claims payments and the Canadian National
13 does not. The issue remains between Mr. Banks
14 and the Canadian Pacific as to whether a
15 1958 figure or an average for the three-year
16 period 1956-1958 is more appropriate.

17 32) pp. 25-28

18 pp. 19230-33 - Canadian Pacific agreed in
19 principle that switching large blocks of cars
20 would have some effect on switching costs,
21 and that some revision in the allowance for
22 winter switching conditions should be made.
23 It was decided ~~that the Canadian Pacific~~
24 would re-examine its position in these
25 matters and submit a memorandum on winter
26 switching and multiple car cuts to the
27 Commission staff and Mr. Banks.

28 33) p. 28, line 12

29 p. 19233 - The Canadian Pacific objects to
30 the words "with equal vigor" and to the



1 contention throughout the section that the
2 allocation of this account, traffic in
3 general, must be arbitrary. The most
4 important difference appears to be that on
5 traffic expenses the position of Mr. Banks
6 is that grain requires less effort per dollar
7 of revenue than does traffic generally.
8 The Canadian Pacific maintains that grain
9 does require as much work from the Traffic
10 Department.

11 34) pp. 30-31

12 pp. 19235-36 - Canadian Pacific has under-
13 way a study of the variability or lack of
14 variability of taxes with respect to volume
15 of business. When prepared it will be
16 submitted to the Commission staff and Mr.
17 Banks. In part, this controversy again hinges
18 on the time concept which is considered to be
19 relevant to the study.

20 35) pp. 32-33

21 pp. 19237-38 - The railways object to the
22 apportionment of constant costs to passenger
23 traffic.

24 36) p. 35,

25 p. 19240 - The Canadian Pacific objects
26 that it has overstated track miles related
27 to grain. This controversy hinges upon the
28 degree to which branch lines carry grain,
29 as opposed to other products. The Canadian
30 Pacific has agreed to check the accuracy of



1 the data presently in the hands of the
2 Commission staff and the parties and to re-
3 submit the information.

4 37) p. 36 - Section 2

5 p. 19241 - As reported under Point 32,
6 Canadian Pacific has re-examined its position
7 with regard to multiple car cuts and it is
8 also examining the effects of station reloads.

9 38) pp. 37-38,

10 pp. 19242-43 - Canadian Pacific argues that
11 the period of transition has not resulted in
12 the overstating of the cost of moving study
13 traffic.

14 39) pp. 38-39

15 pp. 19243-44 - Mr. Banks objects to the
16 treatment of train wages as being 100 per
17 cent variable with traffic. The Canadian
18 Pacific objects to this and stated that
19 certain tests had been performed on
20 variability of crew wages on local trains
21 in support of 100 per cent variability.
22 The fundamental issue between the two
23 parties hinges very largely on the time
24 period considered relevant for the study.

25 40) pp. 39-40

26 pp. 19244-45 - The point raised with regard
27 to road engine costs involves the same
28 principles as are given under Point 39.
29
30



1 41) pp. 40

2 p. 19245 - With regard to future yard costs
3 Mr. Banks argues that this is an area in
4 which productivity will increase substantially.
5 The Canadian Pacific argues that regardless
6 of the truth, or lack of truth, in this
7 observation it is irrelevant to a study of
8 the cost in 1958.

9 42) pp. 41-42

10 pp. 19245-46 - As this section is a summary,
11 the differences over the contents of these
12 pages has been discussed above.
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2 THE CHAIRMAN: Mr. Mauro?

3 MR. MAURO: I believe, Mr. Banks, that you
4 have one point of clarification there.

5 THE WITNESS: Yes, sir, I do.

6 At the cost conference held in Montreal in
7 November, the C.P.R. asked me whether all the costs which
8 had been adjusted by Manitoba and Alberta had been
9 described in the text of my memorandum and I stated that
10 to the best of my knowledge and belief they had been.

11 In re-checking my work, however, I ascertained
12 that there was one adjustment reflected in our figures
13 which was not described in the text. This adjustment
14 relates to a number in our table No. 1, and it had the
15 effect of reducing the C.P.R.'s computed costs by
16 \$8,506.00 and it pertained to accounts 231, 266, the
17 maintenance and depreciation of fuel and water stations.
18 The variable cost which we show for these expenses is
19 \$8,506.00 lower than that shown in the C.P.R.'s exhibit
20 63 revised, because we have adjusted the expense to
21 reflect the reduction in facilities and water expenses
22 which naturally flowed from the lesser number of yard
23 switching miles which we estimated to be attributable
24 to grain.

25
26 CROSS-EXAMINATION BY MR. SINCLAIR:

27 Q. Mr. Banks, so that I may indicate to
28 you what the climate of my discussion with you will be,
29 I first intend to deal with some matters that have to do
30 with costing generally -- matters that I feel we can



1
2 agree upon -- and then I intend to move into your
3 memorandum and deal with it pretty well seriatum. I
4 will indicate to you before I put the question the area
5 of the memorandum about which I am directing it.

6 Now, the first part of my examination having
7 to do with the principle of costing is, I would ask you,
8 first: you would agree that cost finding in relation to
9 the railways has been underway since before the turn of
10 the century? I think the earliest ones made were around
11 1897; some papers published in the United States?

12 A. This may be so, Mr. Sinclair. I have
13 not seen these 1897 papers to which you refer.

14 THE CHAIRMAN: That was before he was born.

15 MR. SINCLAIR: Q. It is a rather historic
16 date in some other aspects, too. In any event, you will
17 recall that committees were set up and around the time
18 of the first World War a committee under the chairmanship
19 of Yaeger developed variability of costs in maintenance
20 of way, and published their findings?

21 THE CHAIRMAN: We have heard of it.

22 MR. SINCLAIR: Q. And their findings were
23 published in 1919 based on the cost figures in 1917; do
24 you remember that?

25 A. I do not remember the specific dates,
26 but I would certainly agree with your general
27 description, yes, sir.

28 Q. Now, the earlier economists and the
29 engineers who did cost analysis of railway operations
30 found a low percentage of variabilities. Do you agree



1
2 with that?

3 A. Yes, sir.

4 Q. And it has been suggested that this
5 low percentage of variability that they found was due
6 to the fact that they have looked at cost and traffic
7 fluctuations over a relatively short period of time and
8 most of them fell under ~~that~~ alluring concept that has
9 always tempted railways; namely, additional business can
10 always be handled for virtually no additional cost; the
11 additional car on the additional train costs almost
12 nothing.

13 Would you agree with that description?

14 It comes from a paper of yours, Mr. Banks.

15 A. I am delighted, Mr. Sinclair, that you
16 have found my work of sufficient validity to quote from
17 it.

18 Q. Well, I certainly have read it. This
19 is a full text of the document.

20 A. Yes. I have a copy here, and perhaps
21 if you intend to quote in future, you would just tell me
22 the page number.

23 Q. Yes, I will, page 33. The work that I
24 am referring to is the study referred to in the
25 qualifications of Mr. Banks. It is the study of cost
26 structures and cost finding procedures by Mr. R.L. Banks
27 and Associates made for the Department of Commerce and
28 Transportation -- I think is the full description -- of
29 the United States government, and it was completed, I
30 think, in the end of 1959 and submitted?



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A. That is right, sir.

MR. FRAWLEY: The thing that Ernest Williams was the director of.

MR. SINCLAIR: I do not know whether that it could be described as the thing that Ernest Williams was the director of. It was a study for the government of the United States in which Mr. Banks participated. He was, maybe, the key of the whole study.

MR. FRAWLEY: Well, yes. My angle is not too apt, Mr. Sinclair. I just wanted to be sure that was the general thing.

MR. SINCLAIR: Q. You have not changed your mind since you described that the earlier people with their low variability fell into this error. We will agree that low variability arose from the fact that by looking only at the short term you would get this alluring concept that an extra car could be put on a train and additional business could be handled by the railway for nothing?

A. I have not changed my mind.

Q. Now, your qualifications show that you went to Yale; and there was a transportation economist at Yale who was well known, and that is Professor Healey -- H e a l e y -- and you quote from him.

A. Excuse me, sir. May I interrupt.

Q. Yes.

A. Mr. Healy is very sensitive about the spelling of his name, and the last "e" should be deleted, please.

Q. How do you spell it? H e a l y?



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A. That is the way he spells it, sir.

Q. Well, then, I guess he would know.

Then, the way he looked at it was this -- and I am going to ask you if you would agree that this would be right -- taking 1940, under present conditions of security, most main line railroad facilities and the operation thereon have had a chance to be closely adjusted to the density of traffic handled and the revenue derived therefrom, so that average unit costs tend to be nearly uniform over a wider range of density, and the cost of handling additional increments of business are not likely to be much below the average costs.

That was the view held in the early forties?

A. Not quite, sir.

If I understood the way you read it; the way you read this quotation, you did not quite read it completely. And Mr. Healy, who is a careful scholar of these matters, was always at pains to qualify what he said with the full knowledge that there is more work yet to be done in this field than has yet been accomplished. And, consequently, he said: "The implication is rather that..", and so on.

Q. I see. And, so, you say that this is the implication, but that he was not sure it was right?

A. I do not know whether he was sure or not. I know he wrote it the way you and I have read it together.

Q. Would you disagree with the fact that



1
2 it was the view generally held at the time of the early
3 forties that the maturity of the railroad plant was such
4 that average unit costs tended to be nearly uniform over
5 a wide range of densities and the costs of handling additional
6 increments of business would not likely be much below
7 average costs?

8 A. I would suggest that this was the view
9 of Mr. Healy. How widespread the acceptance was at the
10 date you have fixed, I have no knowledge. I think,
11 however, that his views have persuaded and convinced a
12 great many transportation economists.

13 Q. Well then, in 1938, there appeared on
14 the costing scene the work of Dr. Ford K. Edwards that he
15 did for the California Public Utilities Commission which
16 has been described as a great advance in the application
17 of cost finding as applied to the transportation industry.
18 Would you agree with that description?

19 A. Yes, sir, I would.

20 Q. And Dr. Edwards' concept which he
21 published in 1938 was applied in 1941 by the I.C.C. staff
22 to its first issue of what has become known as the rail
23 form "A"; correct?

24 A. Yes, sir.

25 Q. And, subsequently, the I.C.C.
26 did further work and refinements on rail form "A" to a
27 degree and applied what is generally described as an
28 overall percentage of variability factor to various
29 groups of accounts. Do you agree with that?

30 A. This they did after several intermediate



1
2 stages during the course of which in at least two cases
3 they computed percentage variable by individual account
4 rather than composite account.

5 Q. Yes, but they dropped the percentage
6 variability development by individual account to come
7 to an overall percent variability for operating expenses,
8 rents and taxes, 80%; for road investment, 50%; and
9 equipment investment, 100% -- which is the basic form
10 of rail form "A" since, let us say, 1951 - 1952?

11 A. They did this, sir, in my view to
12 facilitate the administrative process; and, as a result,
13 they have since then been engaged from time to time in
14 defending their use of these percents variability which
15 are certainly susceptible to challenge in various
16 situations.

17 Q. Mr. Banks, you would agree that in the
18 costing of transportation industries' traffic it has been
19 recognized for a good many years that short run costs
20 determinations are not meaningful unless you are dealing
21 with spot traffic movements that are not going to
22 continue.

23 A. I think what you are expressing, Mr.
24 Sinclair, is the commonly accepted view which represents
25 something less than a completely thought-out view of the
26 way in which costs can be use to aid the railways in
27 developing their pricing structures and in maintaining and
28 improving their competitive positions.

29 Q. Are you suggesting that it is meaningful
30 to look at short run costs if you are going to other than



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2 look at other than spot movement, or one of definitive
3 time movement?

4 A. What I am suggesting is that the use
5 of long run variable costs, which I have certainly
6 endorsed in this volume that you have quoted from, is
7 related to the idea that once established railway rates
8 and tariffs continue in perpetuity until the publishing
9 agent or railroad company chooses to cancel it.

10 What I am suggesting is that there is, in
11 my opinion, room for a considerably greater degree of
12 flexibility as to dates and times and seasonality at
13 which rates can be applied. I think the railways --
14 at least in the United States, where I have a little
15 knowledge of them have not yet begun to explore and
16 investigate all the ways in which their pricing structure
17 will have to adjust to the new competitive situations in
18 which the railways find themselves.

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2 Q. My point is this: in cost
3 determination for the movement of a body of traffic, that
4 is a representative volume over time that does not vary
5 too greatly, it would be meaningless, I suggest to you,
6 to look at short run costs to try to determine what would
7 be a just and reasonable level of compensation.

8 A. Are you referring to Crowsnest grain,
9 Mr. Sinclair?

10 Q. I will take iron ore from the Mesabi
11 Range to Duluth, if you like, or steel products from
12 Pittsburg to Chicago or onions from Michigan to Boston.

13 A. I would agree with your general
14 position subject to review in each situation that long
15 term variable cost is the proper cost to be used in
16 setting durable traffic movements whose flow will continue
17 into the traffic future throughout the year.

18 Q. Now, another point I think we can agree
19 on, Mr. Banks, is that the presentation of a rail cost
20 analyst in costing only sets up a theoretical operation
21 where studies are not available which have measured the
22 actual operation.

23 A. I think we can agree to this, Mr.
24 Sinclair, and I think we can also agree that because
25 theoretical models are set up it cannot be concluded
26 that the answers are precise.

27 Q. For instance, rail form "A" suggests
28 that where at all possible several studies of switching
29 should be undertaken rather than the use of averages
30 as a determinant by the I.C.C. cost finding statistics:



1
2 would you agree with that?

3 A. I agree with that, yes sir.

4 Q. And the reason that this is so is that
5 if you use -- if you do not use the special studies that
6 it ignores the functional differences among railroad
7 yards which are many and varied.

8 A. Are you telling me that or asking?

9 Q. Asking; would you agree?

10 A. Yes, I agree.

11 Q. Now, one of the disabilities of rail
12 form "A" in certain of the accounts in particular is that
13 it uses aggregates or averages which fail to reflect a
14 particular characteristic of the traffic being studied
15 or the railway being studied.

16 A. I would agree that is of equal
17 importance in its finding in failing to specify how one
18 can both properly and with facility distinguish between
19 long run and short run, the latter being designated to
20 be rail form "A" as out of pocket costs to products under
21 measure which is susceptible of confirmation as to when
22 short run ends and long run begins.

23 Q. Well, another thing that it does, and
24 I think as a cost analyst you would certainly agree with
25 this, is that it fails to separate the measure of unit
26 costs associated with the movement of traffic in regard
27 to train operations.

28 A. Yes, I will agree with that, sir.

29 Q. Then, would you agree that costing
30 procedures as used in the United States basically in



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2 presentations before the I.C.C. and another regulatory
3 tribunals proceed without refinement in handling what is
4 described as the common or joint problem?

5 A. Yes, sir, I agree with that.

6 Q. Now, notwithstanding the disabilities
7 some of which we have discussed in these proceedings held
8 by the I.C.C. and other regulatory tribunals, you agree
9 that they have been used to judge the compensatoriness
10 and service requirements of hundreds of millions of
11 dollars worth of transportation.

12 A. That is quite right, sir.

13 Q. Now, to gain what cost analysts desire,
14 that is the introduction of refinements to improve upon
15 these procedures that have been held in the United States
16 for the last few years has been an adoption of certain
17 statistical techniques to introduce greater refinement.

18 A. Yes, there has been and those
19 responsible for it have the gratitude of all who must
20 work in this field, I am sure.

21 Q. Now, in applying these statistical
22 techniques there is also a method associated with them
23 which is referred to in different terms that amounts to
24 this: that an experienced operating man can often
25 predict with accuracy what changes in inputs, that is
26 cost, and changes in outputs, that is traffic will
27 involve. I am not trying to catch you, I am referring
28 to 3-45 of this commerce study.

29 A. Could you tell me which paragraph it
30 is in that study? I have been so busy working on



1
2 Canadian matters that I have not had a chance to review
3 this.

4 Q. Well, I have a photostat of it.

5 A. And you are asking me to confirm that
6 this is a quotation from a paragraph which I wrote?

7 Q. I am asking you whether you have any
8 reason to change your view since you made this statement,
9 associated with statistical techniques, there is what
10 as sometimes is described as a method -- you say it could
11 hardly be described as a method -- but nevertheless,
12 which is frequently and successfully used, simply to ask
13 people what they think and I put to you the next sentence:

14 "An experienced operating man can often
15 predict with accuracy what changes in
16 inputs, that is cost, or a change in output,
17 that is traffic would involve."

18 "A trained and knowledgeable observer can
19 frequently predict such changes after a
20 period of observing the operation if
21 essential conditions remain unaltered."

22 A. Mr. Sinclair, I shall certainly try
23 to be fully responsive to your question but I wonder
24 whether you know the circumstances under which this
25 document was produced? I think perhaps this would have
26 a bearing on the answer that I am going to give you and
27 that is why I mentioned it. Are you aware of the time
28 period within which this was produced?

29 Q. I noted your letter of transmittal
30 to Mr. John J. Allan, Junior, who at that time, and



1
2 perhaps still is, was the under-secretary of Commerce
3 for Transportation in the United States Department of
4 Commerce. You indicate there that the contract was
5 issued in June, June 24, of 1959 and your work was
6 completed some five months later.

7 A. Yes sir. What I am driving at is that
8 in my judgment because of the exigencies of the
9 Washington situation we were not given adequate time
10 to do a study of this scope. I am sure that those who
11 regularly practice in the field will agree with that
12 statement. Consequently, it was not possible for me
13 to incorporate in this document all the nuances that
14 possibly could be associated with various sentences that
15 I have written. I do not disown what you have quoted,
16 of course, it is true as a general proposition but if I
17 were writing this document again and if I had adequate
18 time in which to produce it I think I might qualify it
19 to some extent.

20 Q. But basically, while you may wish to
21 qualify it, basically you would not disagree with it.

22 A. No, in my opinion the cost analyst
23 has got to work with the operating and maintenance people
24 on the railroad if his results are to be meaningful.

25 Q. Now, in the application of statistical
26 techniques, Mr. Banks, co-relation on a bi-variant basis
27 has been used for a good many years.

28 A. Yes, it has, at least since Dr. Lorenz.

29 Q. Which is thirty or forty years ago.

30 A. His first work on matters of that



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2 nature was published prior to my birth so that would make
3 it forty-five years ago.

4 Q. And now, in the last five or six years,
5 in more recent times, cost analysts have been trying to
6 introducing the refinements that a multi-variant analysis
7 provides?

8 A. Yes, they have.

9 Q. And in doing so they were merely using
10 what was a fully established technique that had been
11 applied successfully in many of the other fields of
12 industry.

13 A. Quite right.

14 Q. I think a name that has been used here
15 on a number of occasions is Dr. Yntenma who, I think you
16 will agree, as early as 1940 made a very intensive analysis
17 and use of the multi-variants multiple regression and the
18 applicant of those techniques to the multi-product
19 divisions of the steel industry of the United States,
20 particularly United States Steel Corporation.

21 A. That is right.

22 Q. And so we may bring him up to date,
23 Dr. Yntenma has for some years been one of the more
24 senior executive officers of the Ford Motor Corporation
25 of Detroit?

26 A. That is correct.

27 Q. Now, the reason analysts have been
28 turning to multi-variant analysis in certain areas of
29 cost finding is that it provides an ability to comprehend
30 and reduce perhaps the effect on cost of several causal



1
2 factors.

3 A. That sounds like another quotation from
4 Banks; is it?

5 Q. Not quite, it is a combination of
6 Banks and a number of other people but I would think it
7 would be something you could agree with.

8 A. It is.

9 Q. We can agree, I take it, that careful
10 evaluation and selection of significant variables is a
11 matter that must be followed in multi-variant analysis
12 in rail transportation.

13 A. We can agree on that in principle, also
14 adding that this is an area that presents great
15 difficulties many of which fall short at the moment of
16 being fully resolved.

17 Q. But notwithstanding these problems they
18 present, Mr. Banks, we agree, that even with their failings
19 they are a marked advance over the techniques of averaging
20 and matters of that kind that had been used heretofore.

21 A. By that you mean multiple regression
22 techniques?

23 Q. Yes.

24 A. In the areas in which they have been
25 applied in this proceeding, yes, sir.

26 Q. Now, I am going to refer you to a
27 summation of the situation from your volume page 2-29 of
28 your commerce study:

29 "The application of a common percent
30 variable under all conditions is obviously



1
2 but an expedient. If 'percent variable'
3 must be used the margin of error in its
4 application would be diminished by
5 separate values computed for individual
6 geographical territories. Better yet would
7 be the development of mechanics for
8 determination of percent variables by
9 individual expense account. To be preferred
10 too in all these is the derivation of
11 variability by statistical cost functions
12 as is now undertaken to some extent by
13 individual carriers."

14 A. That is a correct quotation.

15 Q. And you have not

16 A. Altered my views?

17 Q. Yes.

18 A. No, sir.

19 Q. Now, in the studies that have been
20 presented here in the moving of grain to export positions,
21 if we have an application of what you describe as a
22 derivation of variability by statistical cost functions
23 in areas where data is available and directly assignable,
24 costing is not appropriate. That is not Banks, that is
25 Sinclair.

26 A. This paragraph from which you have
27 been quoting relates to methods which are necessarily
28 involved in determination of long run variable or out
29 of pocket costs within the given method or its alternative.
30 There is still room for further investigation and perhaps



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for differences of opinion. I would agree with that
general proposition that determination of percent
variable to statistical cost functions is for appropriate
accounts to be preferred to other methods.



1 However, the use, the specific procedures described
2 by the general phrase "statistical cost functions"
3 at this point in the development of railway costing
4 still leaves something to be desired.

5 Q. What you are saying is that you have
6 something good but, like all good things, we can hope
7 for them to be improved?

8 A. That is correct, sir.

9 Q. Mr. Banks, you have defined "directly
10 assignable costs" in this way at page 2-31 of your
11 Commerce Study:

12 "Directly assignable costs are those
13 that are immediately traceable to
14 particular items of output. In
15 transportation there are said to be
16 costs which can be allocated to
17 particular traffic. They are largely
18 composed of actual expense involved in
19 moving equipment from point to point
20 and costs incurred on behalf of specific
21 traffic or traffics. These costs are
22 similar to what the ICC label solely
23 related costs in passenger or freight
24 service and in connection with rail
25 branch lines whose existence is solely
26 related to one particular freight
27 commodity."

28 You have not changed your view as to that, have
29 you?

30 A. Yes, I have in one respect: I think we



1 have to make a distinction here between the word
2 "traffic" -- "traffics", as I have used it, which was
3 really a British affectation on my part because
4 Americans do not generally express themselves in that
5 way. By "traffics" here I mean the distinction between
6 large branches of the railway business such as the
7 passenger on the one hand and freight on the other.
8 I think we must distinguish that from commodities
9 a number of which together may constitute one type of
10 traffic, namely "freight". Also, I would further
11 qualify what you have quoted to the extent of correcting
12 what I believe is an error therein, namely, that the
13 Interstate Commerce Commission has not labeled any
14 rail branch lines as being solely related to one
15 particular freight commodity. In fact, the sole
16 official finding of the ICC with respect to solely
17 relatedness finds that there is not any solely relatedness,
18 and, if you will permit me, I would like to tell you
19 this to substantiate what I am saying and show how I
20 was wrong in this paragraph.

21 Q. Are you going to refer to the docket in
22 the Transcontinental Divisions Case?

23 A. Yes, sir.

24 Q. Are you going to suggest to this Commission
25 that it does not find that solely relatedness is a
26 variable cost?

27 MR. MAURO: Now, wait a minute.

28 MR. SINCLAIR: Just a minute: surely I can
29 ask what he is going to do.

30 MR. MAURO: Oh yes, and I want to give my learned



1 friend the widest possible latitude, but I think before
2 he asks what the witness might suggest, it is a
3 rather interesting comment on the investigation of this
4 Commission to date, because to begin with the Commission
5 will recall that Dr. Ford K. Edwards in his examination-
6 in-chief referred to this case as one of the cases
7 where the concept of solely relatedness was put forward
8 and adopted, and under cross-examination he explained
9 he was the one who put it forward and that there had
10 been no decision and it had been opposed. It also
11 comes into the general context of my learned friend's
12 question, so I think in fairness he should permit the
13 witness to answer and then place his question as to
14 what suggestion the witness is placing upon the finding.

15 MR. SINCLAIR: Well, I thought the witness
16 was referring to this. I gave him the quotation out
17 of his Commerce Paper of 1959. He amended it, and he
18 then said he was wrong in regard to the ICC labeling
19 this, and he said the latest pronouncement on the
20 subject was this, and he picked up a document, and I
21 asked him what it was, and was it his suggestion that
22 this document, being, I think, the examiners' report
23 in the Transcontinental Divisions Case, was it his
24 suggestion that this document, the ICC examiners'
25 report in the Transcontinental Divisions Case -- was
26 it that the concept of solely relatedness to branch
27 lines was not accepted.

28 Mr. MAURO: Well, first hear from the document
29 and then ask for the witness' comments.

30 MR. FRAWLEY: I think the chief objection is that



1 the witness was interrupted.. He began to get the
2 document out without ever having said what it was.

3 THE CHAIRMAN: Well, let us get back on the rails.

4 MR. FRAWLEY: Yes, and have the witness proceed
5 with what he was going to say.

6 MR. SINCLAIR: I would like to put a question
7 to the witness and ask him if he would answer it.

8 MR. FRAWLEY: Well, we may as well settle it now.
9 The witness was interrupted, and I would think he should
10 be allowed to go back to the point where he was
11 interrupted by Mr. Sinclair.

12 MR. MAURO: Carry on, Mr. Banks.

13 MR. SINCLAIR: I would like the witness to answer
14 the question.

15 MR. FRAWLEY: Why? There must be some material
16 motive in it. I would like to get back to the point
17 where the witness referred to the document.

18 THE CHAIRMAN: I think we are at cross purposes.

19 MR. SINCLAIR: Well, let me start again.

20 Q. In your suggestion that the wording of
21 your Commerce Paper at the end of 1959 in regard to
22 branch lines is wrong, are you relying on a specific
23 finding of the Interstate Commerce Commission?

24 A. Sir, I am relying upon the only official
25 pronouncements from the Interstate Commerce Commission
26 which is a report of two of the commission's senior
27 examiners which, under the Administrative Procedure Act
28 of the United States, which governs such proceedings,
29 is the Commission's pronouncement unless the Commission
30 sets it aside or amends it in any particular, and this



1 document which issued on December the 6th, 1960
2 contains at page 18 of the mimeographed edition the
3 following quotation:

4 "We are unable to accept the theory
5 that a proportion of 50 per cent of such
6 traffic on a branch indicates such a degree
7 of dependence thereon as to justify the 100
8 per cent assignment of costs as the Defendants
9 contend."

10 Q. Thank you, Mr. Banks. That was the part
11 I thought I would have to read, but I am glad you have
12 read it.

13 The cost analyst, Mr. Banks, in developing the
14 cost of moving a commodity, you would agree, should
15 take reasonable steps to make refinements that have
16 a significant^{effect}/on the results, and at the same time
17 he should not introduce refinements which do not have
18 a significant effect merely for the sake of being
19 neat, because refinements have associated with them a
20 cost?

21 A. I do not understand the word "neat".

22 Q. A cost analyst in suggesting refinements
23 should be sure or reasonably sure that the refinements
24 that are suggested will have a significant effect on the
25 result, and refinements should not be suggested merely
26 for the sake of being neat in the sense of being
27 technically proud, because the refinements in themselves
28 have associated with them a cost: the cost of
29 developing data and making tests and things of that
30 nature?



1 A. I am afraid I don't know what you mean
2 by the phrase "technically proud". I have always
3 gone by the rule that pride goeth, or cometh, before ---

4 Q. Well, there is quite a difference.

5 A. Well, our work does not have pride as its
6 main spring, but rather a seeking to approach as
7 closely as we can the facts of the matter at hand.

8 Q. Let me do it again with you, and I am
9 not talking about any specific work at the moment.
10 I am talking about the principle, and I want to talk
11 to you about the principle of introducing refinements
12 into costing, and my question to you is this:

13 The cost analyst in suggesting refinements for
14 the purpose of determining the cost of moving particular
15 segments of traffic should be careful not to suggest
16 refinements that do not have a significant effect
17 upon the results; would you agree?

18 A. Mr. Sinclair, I don't wish to be nor to
19 seem to be unresponsive to your question. Perhaps I
20 can phrase it in a way that I can answer. Would you
21 permit me to do so?

22 Q. Certainly.

23 A. I would phrase it something like this:
24 the cost analyst should take every reasonable precaution
25 to measure costs with the factors that are meaningful
26 in so far as such factors can be ascertained.

27 Q. I will go on from that, Mr. Banks, with
28 your permission, to the other question arising out of
29 it:

30 The cost analyst should be careful not to advance



1 refinements which although technically defenceful
2 will not have a significant effect upon the result,
3 because refinements in themselves have associated
4 with them a cost through collection of data and the
5 making of tests and matters of that kind; do you agree?

6 A. I don't believe I do, sir. I think, if
7 I may elaborate on this, that my views on what you
8 have just discussed relate to the fact that the prescribed
9 accounting system for railways which was developed in
10 the United States, and which to a large extent has
11 been followed in Canada, unfortunately, is not an
12 accounting system which was set up to develop costs.
13 It was set up to develop general financial statements,
14 accurate, honest objective statements of income and
15 profit and loss which was the major regulatory
16 concern when the Interstate Commerce Commission was
17 established, and when we attempt to use basic data
18 from accounts devised for that purpose for an entirely
19 different purpose we are bound to get into difficulties,
20 and that has, unquestionably, in my opinion, been
21 one of the reasons why neither in rail form A nor in the
22 present state of multiple regression analysis have
23 we approached anything resembling "the" cost.

24 Q. When you say "the" cost, Mr. Banks, do
25 you mean that it is the cost in the sense of a
26 mathematician's approach that one equals one?

27 A. I don't know, sir; I am not sure that I
28 understand that question.

29 THE CHAIRMAN: Do you mean, can you be exact?

30 THE WITNESS: I think, Mr. Chairman, that comes



1 very close to what I had in mind, yes sir. You can't
2 know with exactitude or exactness a cost which involves
3 many things going on in many different places over
4 a wide geographic area. The cost analyst today has
5 to do his best to arrive at an estimate of such things.
6 He can't know that with the precision of a physicist
7 working with a vacuum tube.

8 MR. SINCLAIR, Q: "The precision of a physicist
9 working with a vacuum tube": is that precise?

10 A. We have been led to believe, we laymen
11 who are left far behind by the pioneers of modern
12 science, that in their controlled experiments they
13 are able to arrive at the objective sought under
14 certain controlled conditions which permit them to
15 measure things with exactitude. In the United States
16 we have what is called a National Bureau of Standards,
17 very like you folks have the same type of agency here.
18 The work they do which involves such matters as
19 determining how long an inch is and how much a pound
20 weighs, > I submit to you, sir, can be done with a
21 great deal more precision than the determination of
22 how much it costs to move grain to export positions.

23 Q. Let me put it this way to see if we can
24 agree: that in physics or in costing it is possible
25 to develop the number which can be used for the
26 purposes for which the investigation was undertaken.

27 A. I don't agree with that. I think in
28 physics a number -- I beg your pardon: I think in
29 physics the number can be determined. I think in
30 cost analysis for railways a number can be determined,



1 but the "a" can be anyone of several numbers.

2 Q. I would suggest this to you, Mr. Banks,
3 that the Interstate Commerce Commission when they make
4 a determination of costs find the number for the
5 purpose of fixing rates in a case: you agree?

6 A. I agree and also, if I may add to that,
7 they frequently qualify their arrival ~~at such a number~~ or
8 their determination of such a number by several
9 paragraphs devoted to the inadequacies of said
10 number.

11 Q. Of course, you will agree with this, that
12 we have to rely on certain things being developed so
13 that they are safe, and you would agree that the
14 safety is safety that is reasonable under the
15 circumstances?

16 A. Are you talking about -- I am afraid I
17 don't follow you, sir. What kind of safety do you have
18 in mind -- a brakeman not walking on the tops of
19 cars as the train approaches a tunnel?

20 Q. That, of course, is pretty definitive:
21 your head is gone if the tunnel is too low. This
22 is a controlled experiment all right; it is safe or not
23 safe in half a second.

24 I am asking you to look at it in this way: the
25 engineer approaches a problem and he is required to
26 make a motorcar safe for royal commissions to ride in.
27 Now, that requires a determination of safety within
28 reasonable limits for the purpose that it was intended
29 to determine; would you agree with that?

30 A. I am not sure that I can agree with it



1 because I frankly have never come across the word
2 "safety" used in quite the context you are now
3 employing it. You may very well be right, but
4 unfortunately I am not competent to pass upon a
5 situation where I have had no opportunity to study
6 the meaning of the word nor its application in any
7 specific situation.

8 Q. Well, my point may be summed up this way:
9 that you are not one of those who say that cost
10 finding on the railway is impractical and that the
11 results of an intensive cost study cannot be used
12 to determine rate levels, are you?

13 THE CHAIRMAN: Well, I think we will take a
14 recess now.

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16 ---Short recess.
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1 THE CHAIRMAN: Order, please.

2 MR. SINCLAIR, Q: Just before the recess, Mr.
3 Banks, I put a question to you and you have considered
4 it. Could you now give the Commission your answer,
5 please?

6 A. If I understood your question correctly,
7 sir, and if I do not, please make that clear to me,
8 my view is -- or, my answer to your question is that
9 it is not the function of cost analysts to undertake
10 rate-making assignments.

11 Q. Well, I recognize that in the regulated
12 utility or in the transportation industry the final
13 determination of a rate, generally speaking, and with
14 very rare, exceedingly rare exceptions, rests with
15 a board or a tribunal; nevertheless, cost analysts
16 prepare work and make determinations and present
17 studies to reach conclusions as to whether a rate is
18 or is not compensatory?

19 A. This they do, Mr. Sinclair, and in a given
20 proceeding two cost analysts may each make very
21 comprehensive studies and arrive at somewhat different
22 answers, all in good faith on both sides.

23 Q. Yes, but Mr. Banks what I am suggesting
24 to you is this: that the cost analyst, having been
25 placed in an independent position as an advisor to the
26 tribunal, like the cost finding section of the tribunal,
27 like the Board of Transport Commissioners or the cost
28 finding section of the Interstate Commerce Commission,
29 or a technical advisor, can arrive at a cost for
30 moving a given segment of traffic that in so far as



1 is reasonable it becomes the cost. You would agree with
2 that?

3 A. May I restate it, sir?

4 I think we are not very far apart on this one,
5 but my restatement would be that in a particular
6 rate-making situation a number is used as the cost
7 with full recognition that it is not the cost in the
8 abstract sense of the word "the".

9 Q. But, being reasonable men and having a job
10 to do, it is the cost for the purpose and can be so
11 accepted?

12 A. It is a cost that is used for a particular
13 public purpose, yes, sir.

14 THE CHAIRMAN: Is it taken as such?

15 THE WITNESS: I am not sure that I understand
16 you.

17 MR. SINCLAIR: I think the Chairman's question
18 to you is that the determination is taken as the cost.

19 THE WITNESS: Yes, sir.

20 COMMISSIONER GOBEIL: You mean to say that the
21 cost of service principle would not be applied correctly?

22 THE WITNESS: That the cost of service principle
23 should not be applied -- ?

24 COMMISSIONER GOBEIL: Could not be applied
25 correctly; with the proper exactness?

26 THE WITNESS: My view on that, Mr. Commissioner
27 Gobeil, is that the cost of service can never be the
28 sole determinant of railway rates. It is an important
29 one but it is not the only one. If we made rates
30 solely on a cost of service basis, it would upset the



1 transportation structure of both your country and mine
2 completely.

3 MR. SINCLAIR: This is a little different
4 aspect, and maybe I can carry it on now that it has
5 been introduced, just one or two steps, because I think
6 you would agree with this, too, Mr. Banks: that what
7 you are saying is that while variable costs, long term,
8 for continuing volume of traffic must set the floor;
9 considerations of determining which are reflected by
10 value of service pricing set the ceiling subject to
11 an overall feeling that might be determined? You would
12 agree with that way of expressing it?

13 A. I am not sure I would, Mr. Sinclair. We
14 would have to think that one over. Now, if you want me
15 to answer it later, I would be happy to do that.

16 Q. Let me do it step by step. What I say
17 to you is that you will agree that in the transportation
18 business rates should not be below long term
19 variable costs if it involves a continuing movement
20 over a substantial traffic?

21 A. No, sir, I certainly would not agree
22 with that statement -- let me make clear why I would not
23 -- because in my opinion there is a great deal of
24 transportation service, at least in the United States,
25 performed at below out-of-pocket cost, both on the
26 railway and in other kinds of transportation.

27 Q. This I know, and I should put you back
28 into the environment in which I am putting the question.

29 I suggest this to you: that if a rate does not
30 meet its costs, its variable costs, having in mind its



1 traffic characteristics, its type of movement, and the
2 time of movement, it will place a burden on other
3 traffic or on the carrier, or both? Would you agree
4 with that?

5 A. I am not sure that I do, Mr. Sinclair.
6 There may be times and areas and commodities where
7 all public considerations taken into account it is
8 essential to charge to the shipper much less or at
9 least somewhat less than long-term variable cost.

10 Q. Do you know or have you looked at the
11 requirements under Canadian rail transportation as to
12 the position of rates being below long-term variable
13 cost or being non compensatory?

14 A. No, sir, I have never read the Railway
15 Act.

16 Q. Are you, Mr. Banks, suggesting as a
17 railway cost analyst that rates should be fixed below
18 long-term variable cost for continuing movements of
19 traffic spread throughout the year?

20 A. Not generally, no, sir. But there may be
21 certain special situations where public policy overrides
22 transportation economics.

23 Q. And in those situations, then, you would
24 agree, I take it, that a burden is placed on other
25 traffic, or the carrier, or both?

26 A. At the point we now have reached in
27 transportation economics, that is the conclusion that
28 one must inescapably draw. However, it may not be in
29 the literal sense true.

30 Q. In other words, what you mean by that



1 answer is that that is the accepted basis, but you
2 think that there may be some circumstances where in fact
3 there would not be a burden, and you are talking an
4 economic burden; aren't you?

5 A. Yes. To illustrate what I mean, let us
6 take the case of Crowsnest grain. If it were to be
7 shown that Crow grain is transportation at an out-of-
8 pocket loss to the railway, which of course we do not
9 for a moment concede -- but if that were to be shown,
10 it might still be in the public interest to continue
11 such a situation, and it might be in the railway's
12 interest to do so, likewise, because if the rate were
13 to be raised to a level where it would be theoretically
14 compensatory, it might have such an injurious effect
15 upon the economies of the prairie provinces as in the
16 long run to cast a burden on the railways through
17 erosion of other traffic, through the failure of the
18 economies to sustain the flow of agricultural implements
19 and consumer goods which the railways now carry, which
20 would be lost to them if the farm element in the western
21 population were to lose their purchasing power, which
22 would happen if their markets were cut off through
23 transportation rates set at an unduly high level in
24 order to meet the theoretical requirements of long-term
25 variable cost.

26 Q. Mr. Banks, in Canada, I suggest to you
27 that what you have just put before this Commission could
28 not happen because the Government of Canada before
29 they would have removed the statutory level that now
30 existed would have necessarily made a determination that



1 a just and reasonable level of rates would not cause
2 economic hardship on a section of this country which
3 is as large as from Winnipeg to Calgary, and from
4 the border at least, some miles north therefrom,
5 depending on which province you are from.

6 A. Well, sir, does this not go to the
7 question of what is meant by just and reasonable. My
8 understanding is that this is a lawyer's term which
9 some economists have used and which remains substantially
10 undefined despite a great body of work dealing with
11 it and attempting to define it.

12 Q. Let me put it to you this way, Mr. Banks.
13 At the present, the level of grain rates to export
14 positions are fixed by statute, and cannot be changed
15 or altered as changing conditions and costs of
16 transportation may require? You agree with that?

17 A. I assume that this is correct, yes, sir.

18 Q. Therefore, if the Parliament of Canada
19 decided that this protection was no longer required, I
20 suggest to you automatically it follows that they have
21 made a determination that this statutory level of grain
22 rates that now exists is no longer required for the
23 western grain growing economy, and therefore the
24 suggestion you make of them rising to a just and
25 reasonable level and causing economic hardship would
26 not pertain because it would have been determined by
27 those possibly best competent to determine it?

28 A. I am afraid, Mr. Sinclair, you have,
29 I am sure, inadvertently credited me with a statement
30 that I did not make. Your assumption is that a rate



1 to be just and reasonable must meet long-term variable
2 cost.

3 Q. Plus something?

4 A. Plus something.

5 Q. You would agree with that?

6 A. I am not sure that I would. Just and
7 reasonable is a legal, a political term, not an
8 economic one.

9 Q. Is what?

10 A. A legal, a political term, not an
11 economic one, by and large, and what may be just and
12 reasonable for the whole people of Canada may not be
13 economic for the Canadian Pacific Railway.

14 Q. Of course, Mr. Banks, what you are saying
15 is that national policy may require that rates be
16 kept at an unjust and unreasonable level?

17 A. No, sir. I am suggesting that the
18 concept just and reasonable is a flexible one, and
19 that it must, in order to have a real meaning for the
20 Government of Canada, be applied flexibly and in
21 full consideration of the fact that different
22 commodities and their transportation costs will have a
23 different impact upon the Canadian economy.

24 Q. Well, let us take it that that is so;
25 that different rates will have a different impact;
26 different levels of rates will have a different impact
27 on the Canadian economy, and so will different levels
28 of wages have a different impact on different sections
29 of the economy?

30 A. Agreed.



1 Q. So will different tax rates have a
2 different impact on different sections of the economy?

3 A. Agreed.

4 Q. It is a fact of life in Canada that
5 differences in costs do bear with different impacts
6 on different persons in the economy?

7 A. In Canada and elsewhere, sir.

8 Q. Well, I like to keep in Canada. Now,
9 my question to you is this -- and we moved into this rate-
10 making business as the result of Mr. Commissioner Gobeil's
11 question to you -- are you suggesting that your
12 analysis of rate-making is such that you are prepared
13 to say that a rate moving over 25 per cent of the total
14 freight of a railway company can be at less than
15 long-term variable cost without causing a burden to other
16 traffic or the railway or both?

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2 A. Mr. Sinclair, I am no analyst of rate
3 making. I believe the provinces have other experts here
4 who did, in fact, undertake such an assignment but I did
5 not. These questions such as you are now asking me are,
6 in my judgment, problems for a legal, political, governing
7 entity to decide, not for the cost analyst.

8 Q. Well, I am going to ask you as a cost
9 analyst this question: assume with me that you have over
10 25% of your traffic moving below long term variable cost.
11 Does that cast burden on other traffic or upon the
12 transportation agency providing the service or both?

13 A. Mr. Sinclair, I do believe we are going
14 in circles because five minutes ago I answered you at
15 length with my opinion that in the conventional sense a
16 burden will be imposed, as you have suggested. However,
17 I do not think the conventional sense which is merely a
18 rate or cost comparison traces the full political impact
19 and the full economic impact of certain rate functions,
20 and therefore, I do not believe I can subscribe to your
21 statement as it was put to me.

22 Q. Well, Mr. Banks, are you, in giving
23 that answer, expressing an opinion as a cost analyst
24 in transportation or as an economist or as a
25 transportation specialist.

26 A. Well, I usually do not fragment myself.

27 Q. I do not want you to and certainly I
28 do not want to try to.

29 A. I am just answering you to the best
30 of my knowledge, ability and belief in the terms of the



1
2 limited experience I have had.

3 MR. COOPER: Mr. Chairman, I would suggest
4 we are getting a little far afield from the points of
5 disagreement to which the cross examination is to be
6 limited under the ruling of the Commission. We are now
7 into the economic field and I have no desire whatsoever
8 to suggest that Mr. Sinclair be asked to discontinue this
9 line of questioning if the Commission is interested in
10 hearing Mr. Banks views on the point that are being put
11 to him. However, I do point out to the Commission that
12 we do seem to be departing from the points of disagreement
13 as expressed and set out in the report which I filed and
14 put on the record this morning.

15 THE CHAIRMAN: I understand from Mr.
16 Sinclair there were certain things with which he felt
17 they might agree in a limited way.

18 MR. SINCLAIR: Q. I think I can cut this
19 short by putting to the witness a synthesis that I just
20 happened to note at page 2-16 of his commerce study which
21 he put out. I will read this to you:

22 "In short, out of pocket costs establish
23 a floor below which the carrier cannot
24 go in fixing rates. But as the I.C.C. has
25 warned 'if all or a large proportion of
26 railroad rates were brought down to such
27 a level the vitality of the railroad
28 system would be destroyed.' The rails would
29 then be unable to meet their large fixed
30 costs."



1
2 A. Oh yes, this was addressed to the
3 situation we have in the United States at the present
4 time where a great many rail carriers, in their anxiety
5 to prevent the erosion of their traffic through the very
6 substantial competition which they face from inland
7 waterway and motor carriers, have established many rates
8 by the action of the railway below the out of pocket
9 costs level. The quotation which you have just cited
10 deals with an entirely different situation than the one
11 with which this Commission is concerned.

12 Q. Now, with respect, Mr. Banks, what I
13 put to you is that in that part of your commerce
14 department study to which I have just referred, you are
15 dealing with the general proposition which you describe
16 in your report as "ratemaking significance of fixed and
17 variable costs as applicable to surface transportation
18 within the United States"?

19 A. Sir, you have correctly read the title
20 of this part but we have not, in this volume from which
21 you have cited, attempted to make an economic analysis
22 of the entire United States economy. The rules or the
23 methods of that as described here are those appropriate
24 for the transportation industry. With respect, the
25 concern of this Commission, as I understand it, is with
26 the impact of what the transportation industry does or
27 does not do or can or cannot do upon the whole Canadian
28 economy, transportation and other industries combined.

29 Q. Are you suggesting that the ratemaking
30 significance of fixed and variable costs as applicable to



1
2 the transportation industry in Canada is not of moment
3 to the Canadian economy.

4 A. No, I am suggesting there are certain
5 special situations here, this Crowsnest grain situation
6 is evidently the most substantial and enduring in
7 Canada and one cannot apply what I have written here and
8 say "This is the end of the story". What we have written
9 here constitutes an economic analysis and what I am
10 suggesting to you here is that the economics of railways
11 is not the only consideration which the Commission
12 properly should take into account, if I understand the
13 situation.

14 Q. But the quotation that I have read
15 from your commerce study does synthesize the economic
16 situation as applied to the railway transportation
17 industry.

18 A. In the situation where the railways,
19 by their own action, seek to establish non-compensatory
20 rates, yes.

21 Q. Are you suggesting when you talk about
22 fixed and variable costs and their significance that you
23 were only talking about the railway initiated rate action
24 in this report.

25 A. I would have to go back and read this
26 because I have not looked at it since the day that I
27 learned that you were photostating the copy at the
28 Department of Commerce Library.

29 Q. That is the only way I could get a
30 copy.



1
2 A. You will have to complain to the
3 Senate of the United States which is now considering a
4 resolution to print this as a public document.

5 Q. Anybody that wants it can do what I
6 did, go down there and photostat it. Now, what I want
7 to do is ask you to consider this carefully:

8 "In short, out of pocket costs establish
9 a floor below which the carrier cannot go
10 in fixing rates. But as the I.C.C. has
11 warned' if all or a large proportion of
12 railroad rates were knocked down to such
13 a level the vitality of the railroad
14 system would be destroyed." The rails would
15 then be unable to meet their large fixed
16 costs."

17 Are you suggesting that that does not apply
18 to the railway transportation industry in Canada?

19 A. I am suggesting that a situation such
20 as you have described may cause a burden on other traffic
21 but it may have a collateral effect of causing the other
22 traffic to disappear altogether which is even more of a
23 burden on the railway unless, of course, the railway
24 company elects to go into the mining business exclusively.

25 Q. I do not understand the last part of
26 your answer.

27 A. Well, there is a big difference.

28 Q. I think you said, and let me understand
29 you, "unless the railway company elects to go into the
30 mining business exclusively". Now, what did you mean by



1
2 that?

3 A. I mean by that the following: there is
4 a substantial difference, in my opinion, between the
5 situation of the Canadian Pacific in Canada and of the
6 Canadian National, obviously, in Canada, and that of the
7 railways in United States. Your charter is much broader
8 than any charter currently in existence for any railway
9 company in the United States. Your charter enables your
10 company to carry on a great many corporate activities of
11 a highly profitable nature which are denied to those in
12 the United States by virtue of the limitation of the
13 charters.

14 Q. Have you looked at the Union Pacific
15 Railroad and their charter and their rights and the
16 business they do.

17 A. What do you mean by looking at it?

18 Q. Have you studied it before you make
19 this statement?

20 A. I am aware of it but I have not studied
21 it.

22 Q. Have you looked at the Texas and
23 Pacific Railroad, their charters and rights and the
24 businesses they are in?

25 A. I am aware of the businesses they are
26 in and I suggest to you that the Texas and Pacific
27 Company is not in the hotel business, the steamship
28 business, the airline business, the newsstand business
29 and several other activities of a non-rail nature.

30 Q. I thought we were talking of the



1
2 mining business.

3 A. That was an illustration. I am talking
4 about a number of activities which your company has and
5 which is denied to most railway companies south of the
6 line.

7 Q. What you are trying to say to this
8 Commission is that as an economist who has studied
9 transportation business you have come to a conclusion
10 that you have analyzed the situation to such a degree
11 to enable you to say to this Commission that the economics
12 of transportation do not have to be applied to the
13 Canadian Pacific Railway Company.

14 A. No sir, what I am saying to you and also
15 to the Commission is that transportation economics, a
16 field to which I am devoting my life, is not the be all
17 and end all of its existence. There are other
18 considerations to which practicing transportation economists

19 ---

20 Q. Let us get what you have been doing,
21 your life work at transportation economics. I asked you
22 whether you believed that transportation economics as
23 applied to the railways of Canada require:

24 "In short, out of pocket costs establish
25 a floor below which the carrier cannot go
26 in fixing rates. But as the I.C.C. has
27 warned 'if all or a large proportion of
28 railroad rates were knocked down to such
29 a level the vitality of the railroad
30 system would be destroyed.' The rails



1
2 would then be unable to meet their large
3 fixed costs."

4 A. I am sorry, I missed the prelude to
5 that quotation. I do not think the quotation is pertinent
6 to your introduction to it, Mr. Sinclair, because as I
7 suggested before, what we are dealing with in this
8 particular paragraph is the railway situation in the
9 United States where the competition is more aggressive
10 than in Canada, where the chief competitors are evidently
11 also controlled to a large extent by the railway companies
12 and, consequently, it is not applicable to this situation.
13 In Canada you have a duopoly, for all practical purposes,
14 whereas in the United States we have a much more highly
15 competitive system as of the moment.

16 Q. Are you suggesting in Canada that
17 there is a duopoly in transportation.

18 A. That is my impression.

19 Q. A duopoly in surface transportation
20 in Canada.

21 A. That is right, for all practical
22 purposes. You may have hundreds of individual little
23 carriers in provinces like Alberta and Manitoba but
24 their total impact on the transportation economics of
25 the country is quite small.

26 Q. Did you ever hear of British Traction ?

27 A. No, I have heard of British Electric
28 Traction.

29 Q. I am asking if you have ever heard
30 of British Traction?



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A. No.

Q. Have you heard of C.S.L.

A. C.S.L?

Q. Yes.

A. No.

MR. FRAWLEY: At least give him the name,
Canada Steamship Lines.

THE WITNESS: Oh, of course.

MR. SINCLAIR: Q. Have you ever heard of
Dupont and Direct Motor Express and Direct Winters,
Dupont owning the latter two?

A. No, I am not familiar with this
situation.

Q. Now, Mr. Banks, you will pardon me
if I keep on this point that I put to you this morning.
Would you agree that a rail transportation economy in
Canada cannot be financially sound and carry out its
essential functions in the economy if rates are below
variable costs and if, where there are large segments
of traffic involved, they are not substantially above
and close to fully distributed costs.

A. Sir, I dislike having to trouble
you but I cannot deal with both of those involved
subjects simultaneously. Could we have them one at a
time?

Q. I did not know that there was any
double concept in the question. Perhaps the reporter
will read it.

MR. MAURO: You have variable and fully



1
2 distributed, that is what is troubling him.

3 MR. SINCLAIR: Q. Is that it?

4 A. Well, I expect that certainly is a
5 good part of it but Mr. Mauro in describing what was
6 troubling me used three or four words and you used two
7 or three paragraphs and I just could not quite follow
8 it. I do want to be responsive.

9 Q. I do not think I used two or three
10 paragraphs. You just answer my questions and we will get
11 along faster.

12 MR. MAURO: He will not answer unless he
13 understands them.

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1 MR. SINCLAIR: Quite right, and if he doesn't
2 understand, he can say so.

3 Q. My suggestion to you is that the
4 railways are essential to the Canadian economy?

5 A. I quite agree, sir, they are.

6 Q. My suggestion to you is that financially
7 sound railways are essential to the Canadian economy?

8 A. Financially sound railway corporations,
9 sir?

10 Q. Financially sound railway companies are
11 essential to the Canadian economy?

12 A. Yes, sir.

13 Q. I suggest to you that the essential
14 function which the railways provide in Canada through
15 financially sound companies cannot be provided if rates
16 are below variable costs and something more?

17 A. If you are talking about all rates, I
18 certainly agree with you. But if you are talking about
19 one particular rate, namely, the statutory rates
20 established on export grain, I do not agree with you.

21 Q. I say all rates, then: all rates on
22 Canadian railways must be above long-term variable costs
23 and something more?

24 A. I don't agree if I remember what has
25 been said here correctly.

26 Q. I will ask you this: do you agree that
27 the railways of Canada cannot perform their functions
28 through the financially sound companies if rates are
29 below variable costs and something more, and by "rates"
30 I mean rates for the whole of the freight rate structure?



1 A. No sir, I don't agree with that, in view
2 of your previous definition which evidently is embodied
3 in this question that by "rates" you mean all and
4 every rate including the statutory rates.

5 Q. I include all rates. I am going to ask you
6 why, from a transportation economist's standpoint the
7 circumstances under which as a transportation economist
8 you can remove over 25 per cent of the total freight
9 traffic from that concept?

10 A. This is an abstract question, sir? Or
11 are you relating it explicitly to the Crowsnest Pass
12 grain?

13 Q. I will relate it to an abstract question
14 if that is the way -- well, I will say as a matter of
15 economic principle?

16 A. In my view there is a substantial
17 difference between economists on the one hand and
18 accountants on the other. Accounts review history and
19 they arrive at particular numbers. Economists have a
20 function then of lending meaning to those numbers and
21 interpreting them in the light of the political economy
22 of the area where the numbers have been derived, and in
23 a situation such as Mr. Sinclair is asking me to arrive
24 at an answer, I would say we would have to take into
25 consideration other factors if we are to arrive at a
26 meaningful interpretation of the facts.

27 MR.SINCLAIR: I wonder if the reporter could
28 read back my question.

29 MR. MAURO: Before the reporter reads it
30 back, Mr. Chairman, I am prepared to remain here until



Friday. My learned friend Mr. Cooper has mentioned the fact we have gone into a great deal of economics here as opposed to memorandum No. 2. The witness has, to my knowledge, on three occasions this morning explained why he thinks a large body of traffic can move at non-compensatory rates and still be economically feasible, and also that he agreed that, as a general statement, rates should be compensatory. Now, if my learned friend wants to go on with this cross-examination

MR. SINCLAIR: Mr. Chairman, I want to go on.

THE CHAIRMAN: All right.

MR. SINCLAIR, Q: I would like the answer to the question, witness.

MR. FRAWLEY: The only observation I have to make, sir -- because, after all, I am counsel for Alberta -- and we do seem to be getting somewhat away from what the cost conference was called for and what was to follow the cost conference. I think that should be on the record at this point. Certainly, ordinary cross-examination is as wide as the sea, but this is not that kind of cross-examination, and if you wish to give counsel the latitude that is generally given, then we will be here a long time, but I think it is appropriate this was a particular kind of cross-examination, one which takes its origin from the cost conference. I am aware of the breadth of cross-examination under the British system, of course, but I am wondering whether or not we are varying the arrangements made in this particular matter.



1 THE CHAIRMAN: Well, I think we can go on from
2 there.

3 MR. SINCLAIR: Thank you; I would like an
4 answer to the question.

5 MR. MAURO: You mean you would like to re-put
6 the question, because you did receive an answer.

7 THE REPORTER: (Reads): "I am going to ask
8 you why from a transportation economist's
9 standpoint the circumstances under which
10 as a transportation economist you can remove
11 over 25 per cent of the total freight
12 traffic from that concept?

13 A. This is an abstract question, sir?
14 Or are you relating it explicitly to the
15 Crowsnest Pass?

16 Q. I will relate it to an abstract question
17 if that is the way -- well, I will say as a
18 matter of economic principle.

19 A. In my view there is a substantial
20 difference between economists on the one
21 hand and accountants on the other. Accountants
22 review history and they arrive at particular
23 numbers. Economists have a function then
24 of lending meaning to those numbers and
25 interpreting them in the light of the political
26 economy of the area where the numbers have
27 been derived, and in a situation such as
28 Mr. Sinclair is asking me to arrive at an
29 answer, I would say we would have to take
30 into consideration other factors if we are



1 to arrive at a meaningful interpretation of
2 the facts."

3 MR. SINCLAIR, Q: Is it your view from that
4 answer you gave to my question that an accountant is
5 only a historian and cannot interpret figures but must,
6 to have interpretation, call in an economist?

7 A. No, sir. I think you are employing
8 a hyperbola to distort my intent. I say this in all
9 due respect: accountants perform a vital function and
10 they cannot be dispensed with, but they are accountants;
11 they are not economists, with a few exceptions.

12 Q. And economists perform a vital function?

13 A. This is a matter that is sometimes brought
14 into question.

15 Q. But you can substitute in your answer
16 "economists" for "accountants"?

17 A. One could do this, yes sir.

18 THE CHAIRMAN: That is a matter of opinion?

19 THE WITNESS: Yes, Mr. Chairman.

20 MR. SINCLAIR, Q: As a transportation economist
21 is it your view that a rail transportation company in
22 Canada could have over 25 per cent of its traffic
23 moving at rates below variable cost and something more
24 without suffering economic harm to itself or the
25 other users of its services?

26 A. In view of your clause "in Canada" my
27 answer is, yes it could.

28 Q. And if the railways did do that and
29 as a result it was unable to remain financially sound,
30 would you still answer that it would make economic sense?



1 A. Are you suggesting to me, Mr. Sinclair
2 that the C.P.R. is not financially sound?

3 Q. I am not suggesting anything. I am asking
4 you to please turn your mind to the appreciation of
5 transportation economics and try to keep out of Canadian
6 politics.

7 I put the question to you again. Let me
8 ask you this: is it your view that a transportation
9 agency, if it did handle over 25 per cent of its
10 total freight traffic at less than variable costs and
11 something more, would have as a result economic
12 dislocation of the company that is providing the trans-
13 portation service or the other users of its service?

14 A. Mr. Sinclair, I don't know what you
15 mean by "economic dislocation".

16 Q. "Economic dislocation" would be, in my
17 question, requiring traffic to bear a higher than
18 reasonable proportion of total transportation costs?

19 A. I am not sure that this series of
20 questions and answers has not gone into an area where
21 I am no longer able to follow it, but in an attempt to
22 be as responsive as I can I think that in Canada the
23 situation is sufficiently different from the abstract
24 so that one could say in this specific situation the
25 general principle would not apply because the overriding
26 concern is with the public interest of the people of
27 Canada and not the private interest of one or another
28 railway company.

29 Q. You are reading something?

30 A. No sir, I am not.



1 Q. Let me ask you this: before you made
2 that answer, I would like to assess this: how many times
3 have you been in Canada in the last five years and
4 travelled on the Canadian Pacific?

5 A. Could you make that fifteen years?

6 Q. No; I want five.

7 A. In the last five years the only times
8 I have been in Canada have been in connection with
9 this proceeding as far as I can recall.

10 Q. And have you travelled in western Canada
11 in the last five years on Canadian Pacific?

12 A. I have travelled on Canadian Pacific
13 in western Canada but not in the last five years.

14 Q. How much time have you spent in a study
15 of the Canadian rail transportation freight rate
16 structure in the last five years?

17 A. Freight rate structure? Very little
18 indeed.

19 Q. Have you spent any time?

20 A. Yes, I read Professor Curry's book
21 at the commencement of this present proceeding in an
22 attempt to get a background and make up for my inexcusable
23 lack of attention to the Canadian situation prior to
24 that time.

25 Q. And in looking at the Canadian railway
26 transportation scene have you studied the operations
27 of the Canadian Pacific on the ground in western Canada
28 in the last five years?

29 A. No, sir.

30 Q. Have you in looking at the movement of



1 traffic over the Canadian Pacific Railway analysed
2 the various commodity movements as their proportion of
3 total freight tonnage?

4 A. We wanted to do this. The provinces
5 urged such a study be made, and the reasons ---

6 Q. I asked you if you had done it?

7 MR. MAURO: Just a moment.

8 MR. COOPER: I think counsel should address
9 the Chairman of the Commission.

10 MR. FRAWLEY: It is all very well, Mr. Chairman,
11 but the witness was interrupted, and this is the first
12 time in my experience that a witness has not been
13 allowed to answer.

14 THE CHAIRMAN: Well, what was the question?

15 MR. FRAWLEY: It was the answer. The reporter
16 can tell the witness where he left off.

17 THE CHAIRMAN: He has the right to answer.

18 THE WITNESS: I think I can recollect where
19 I was, if I may.

20 THE CHAIRMAN: Well, we can do that at 2:00
21 o'clock.

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23 ---Luncheon adjournment.
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1 -- On resuming at 2 p.m.

2 THE CHAIRMAN: Order, please.

3 MR. SINCLAIR: Q. Just before the noon
4 recess, I put this question to you and you had not
5 answered it because of some discussion between myself
6 and my friends. I put it to you now.

7 Have you looking at the movement of traffic
8 over the Canadian Pacific Railway analyzed the various
9 commodity movements and their proportion of total freight
10 tonnage?

11 A. And the answer which I started to give
12 but never had the opportunity to complete was that we,
13 the provinces, had proposed that such a study be made
14 and it was our understanding that if it had been made
15 we would have participated in such a study. I personally
16 might have had the opportunity to make this study, but
17 in the denial of permission of such a study to be made I
18 have not, obviously, made it.

19 Q. Then, your answer to the question is
20 no for the reasons that you have given?

21 A. Yes, sir.

22 Q. Mr. Banks, if a railway plant of some
23 11,000 miles had over 40% of its freight tonnage
24 moving at less than variable cost, you would agree that
25 in such circumstances the vitality of that railway system
26 would be destroyed?

27 A. What 40%, sir?

28 Q. 40% of its total freight traffic.

29 A. You are asking me whether I would agree
30 that the vitality would be destroyed?



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Q. Yes.

A. I do not know what you mean by vitality.

Q. That its ability to continue to provide efficient railway transportation at equitable rates and to remain financially sound.

A. Well, sir, I assume that we are here again fencing about the Crowsnest Pass grain rate situation.

Q. I am not fencing, Mr. Banks, so just drop the assumption, please.

MR. FRAWLEY: Oh, well, I guess we are entitled to just use a word now and then.

MR. SINCLAIR: Q. "I assume" the witness said, "that we are again fencing". I just asked him to drop that assumption and answer without the assumption.

A. Well, answering without the assumption, Mr. Sinclair, I have not been of the understanding that there is any impairment of the economic vitality of the Canadian Pacific Railway that has been demonstrated in this proceeding.

Q. Mr. Banks, would you please listen to this question?

A. Yes, sir.

Q. If a railway plant of, say, 11,000 miles had 40% or more of its total freight tonnage moving at rates below variable cost, would you agree that the vitality of that railway system would be destroyed?



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2 A. I do not think that one can properly
3 answer such a question in the abstract. There are
4 conditions and circumstances which surround every such
5 hypothetical situation which would condition one's
6 answer.

7 Q. Let me ask you this. If there was a
8 railway plant of 3,000 miles where 75% of the total
9 freight tonnage moving over that railway plant was moving
10 at rates below variable costs, would you agree that the
11 vitality of the railway would be impaired?

12 A. Only if I knew of the return the railway
13 was getting on the remaining 25% of its traffic.

14 Q. What you mean by that -- was it
15 transferring the loss from the traffic moving at less
16 than variable cost to other traffic?

17 A. Cross-subsidization.

18 Q. I see. And if there was cross-
19 subsidization, under those circumstances you would agree
20 that this would result in resource misallocation of
21 transportation facilities?

22 A. Not necessarily.

23 Q. You would not agree?

24 A. Not necessarily.

25 Q. Mr. Banks, assume with me that there
26 is 11,000 miles of railway plant where over 40% of its
27 total transportation is moving at less than variable
28 costs. Would you agree that in those circumstances if
29 the railway was to remain financially sound it would have
30 to charge unreasonable rates in respect to economic cost



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2 on other segments of traffic or have its financial
3 situation unstabled or its vitality impaired?

4 A. It depends, sir, upon what you mean
5 by 40% of total transportation; how are we measuring
6 this?

7 Q. Revenue ton miles.

8 A. Well, again, I think I must advert
9 to my previous answer. It depends largely upon the
10 results, the economic results, the net income attained
11 and the return on investment attained from the remaining
12 traffic and the resources devoted thereto.

13 Q. Would you have any difficulty if it
14 was 100%, in answering the question?

15 A. No, I would have no such difficulty,
16 and would attach no qualifications if it were 100%.

17 Q. But you would attach qualifications if
18 it was 75%?

19 A. I think that is right. One of the big
20 problems that we have in this consideration of the
21 Crowsnest Grain movement is the question which, as far
22 as I know, has not been resolved of when a branch line,
23 just an ordinary branch line, should properly have
24 attached to it the label "substantially related", and
25 when perhaps the words "substantially related" may
26 properly dissappear and the word "solely related"
27 properly be designated for that branch line.

28 It's all --

29 Q. Let us please -- if you think that is
30 responsive to the question I put to you I am surprised.



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2 MR. MAURO: I am not going to address myself
3 to my learned friend, but I trust this is the last time
4 I shall have to address myself to the Commission. My
5 learned friend can then direct his question and get the
6 responsive answers he is looking for. The witness should
7 be able to answer the questions as he sees fit.

8 THE CHAIRMAN: What was the question?

9 MR. SINCLAIR: My question was this: did
10 he think that if the traffic volume was 75% moving at less
11 than variable cost, would he have to qualify his answer
12 as to its destroying the vitality of the railway system?

13 THE CHAIRMAN: Well now, the witness may
14 answer.

15 MR. FRAWLEY: That was the answer he was
16 giving when he was interrupted.

17 THE WITNESS: My answer, Mr. Chairman, was
18 that was based on the assumption which may be in error
19 that what counsel for C.P.R. is concerned with is not
20 an abstract situation but rather the reality that confronts
21 this Commission in determining what shall be done about
22 the grain lines and when we get to questions of how many
23 miles of line have what percentage of traffic carried at
24 rates assumed to be below variable cost, what we are
25 really doing is saying: "When does a railway line become
26 substantially or solely related to the carriage of grain?",
27 and I was trying to suggest to Mr. Sinclair that in my
28 opinion this is one of the unresolved issues which faces
29 this Commission as of this moment, as I see it, because
30 the Canadian Pacific Railway, through one or two tests



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2 which it made of a nature very similar to that set forth
3 before the Interstate Commerce Commission in important
4 recent proceedings also involving solely or substantially
5 related lines suggested that the 50% rule was a good
6 point of determination as to when a line would be substantially
7 or solely related to the grain traffic.

8 It was later determined that a number of
9 grain lines were substantially below 100% exclusive
10 devotion to grain traffic. There are some lines of 50,
11 60 and 70% revenue ton miles relating to grain, and the
12 remaining 50, 40, or 30% of the traffic of the revenue
13 ton miles on those lines is being produced by other
14 commodities. And I said I am trying to respond to Mr.
15 Sinclair's suggestion when he frames it as he did by
16 saying that before one could make a judgment as to
17 whether the economic viability of these branch lines was
18 impaired by the carrying of grain traffic, one would have
19 to know what the costs and revenues and net return was on
20 the remaining traffic where this is a substantial
21 proportion of the total.

22 THE CHAIRMAN: I take it, then, you do
23 not answer yes or no?

24 THE WITNESS: That is right, sir.

25 COMMISSIONER GOBEIL: May I ask a question,
26 Mr. Sinclair?

27 Mr. Banks, you mentioned again this
28 afternoon what you said this morning about the judgment
29 whereby the United States -- I have taken a note in the
30 transcript later -- when there is 50% of the traffic



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2 allocated to a commodity, it was determined that it
3 could not be classified as solely related. That was the
4 case which was put; is it not?

5 THE WITNESS: Well, it was the determination
6 of the hearing examiners who have been listening to this
7 particular case since 1955, Mr. Gobeil.

8 COMMISSIONER GOBEIL: But if it was, say
9 80%, would you -- when 80% of the traffic is one
10 commodity, would you classify it as fully related, or
11 does it need 100%?

12 THE WITNESS: What I am suggesting, sir,
13 is that I think that there needs to be an examination
14 in each case of what the remaining ten or twenty or
15 fifteenpercent consists of and how profitable it might
16 be to the railway and whether the public interest can
17 dispense with that 15% altogether and load it all on
18 against the grain traffic.

19 COMMISSIONER GOBEIL: I see.

20 MR. SINCLAIR: Q. What you are suggesting,
21 Mr. Banks, is this: that the revenues from traffic other
22 than the solely related commodities should be credited;
23 is that your position?

24 A. No.

25 Q. But that was not done in the case to
26 which you refer in the United States; was it?

27 A. No, it was not.

28 Q. Was it done in the case of the grain
29 cost studies as advanced here?

30 A. I am not certain. I have not had an



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2 opportunity --

3 Q. Your assistant is trying to tell you
4 the answer; would you like to ask him?

5 A. Yes, if I may. I will consult with
6 him.

7 We agree.

8 Q. We agree what?

9 A. We agree that the answer I gave you
10 was the proper one.

11 MR. MAURO: Give it again, Mr. Banks .

12 MR. SINCLAIR: Q. You agreed that in the
13 case here before them that you are not certain as to
14 whether the railways credited the revenue from non-
15 grain traffic?

16 A. The railways say that they did this

17 Q. You are disputing it?

18 A. We have had occasion in looking into
19 the railway's material to have differences of opinion
20 with the railway as to what was done with their own
21 data, yes, sir.

22 Q. Are you disputing it in this case --
23 that they did not credit the revenue? This is specific.
24 Are you disputing the railway's statement to this
25 Commission that they credited the revenue for non-grain
26 traffic?

27 A. This is the method that the railway
28 has said it has used.

29 Q. The Canadian Pacific?

30 A. This is the method the Canadian Pacific



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2 has said it has used. I am not disputing anything with
3 anybody. I am saying we have not had an opportunity to
4 examine how this was done. In every case where we did
5 examine what was done, we found certain deficiencies.
6 Therefore, it is my conclusion if we had looked into this
7 we might very well have found deficiencies in respect to
8 this.

9 Q. In every case you looked into you found
10 deficiencies. That is your statement to this Commission?

11 A. I will amend that and say in a great
12 many cases.

13 Q. Well, one of these areas in which you
14 say you found deficiencies, Mr. Banks, -- maybe this is
15 a good time to take a good look at it. I am just going
16 to take an example to deal with the witness's evidence
17 to this Commission.

18 Would you look at page 16 of your memorandum
19 to this Commission: Memorandum No. 2?

20 This is transcript, volume 116, page 19221.

21 Here, the witness is dealing with "freight
22 car depreciation". It is your position, Mr. Banks, that
23 investments in freight cars is determined by intensity
24 of use rather than volume of traffic. Correct?

25 A. I did not say that in here, sir.

26 Q. You did not say that?

27 A. No.

28 Q. Is it your position?

29 A. No. You have stated it in general
30 terms as my position. I said, Mr. Sinclair that we



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2 examined the C.P.R. experience with respect to this
3 matter and we found that with respect to C.P.R. the car
4 day or ownership pattern of its fleet does not appear to
5 be directly or positively related to traffic volume
6 fluctuations on the basis of the last thirty-five years
7 of C.P.R.'s experience.

8 Q. So that, in so far as Canadian Pacific
9 is concerned, it is your position that investment in
10 freight cars is determined by intensity of use rather
11 than volume of traffic?

12 A. I did not say that, either.

13 Q. Is it your position that because there
14 is not the co-relation between volume of traffic and
15 investment in freight cars that you have treated that
16 portion freight car depreciation referable to car miles
17 as being variable, and that portion of freight car
18 depreciation referable to car days as being constant?

19 A. If I understand you correctly, I think
20 you have expressed it as we have done it, yes, sir.

21 Q. Now, to support your conclusion that
22 investment in freight cars on Canadian Pacific is not
23 related to volume of traffic you prepared two charts;
24 correct?

25 A. I did.

26 Q. And these are set out in volume 116 of
27 the transcript, at pages 19249, 19250, and they are
28 designated charts 1 and 2 attached to the memorandum No.
29 2 presented by the witness.

30 Now, when you presented this to the



1
2 Commission you corrected your equation on chart 1?

3 A. That is correct.

4 Q. What is the cause of that correction?

5 A. A clerical error.

6 Q. A clerical error.

7 Now, what chart 1 depicts, Mr. Banks, is
8 a time series analysis over the period 1928 through 1958;
9 correct?

10 A. 1924.

11 Q. 1924 through 1958, yes.

12 That is what it is -- a time series?

13 A. That is correct.

14 Q. 1924 through 1958.

15 Now, what you have done on this chart
16 -- if I understand it -- is to assume a direct co-relation
17 between car miles per car owned and millions of loaded
18 freight car miles. That is the first being along
19 the "Y" axis, and the second along the "X" axis,
20 of this chart?



1 A. We made no assumption, we simply
2 plotted the experience to see what it disclosed.

3 Q. Well now ---

4 A. You suggested a moment ago that we
5 assume a certain correlation and my answer to that is
6 that we did not make that assumption. At the start
7 we had no idea what the statistics would disclose.

8 Q. What you did was assume that thousands
9 of car miles on per car owned and millions of road
10 freight car miles were correlated or else you would
11 not have put them together?

12 A. I am afraid I cannot agree with that.

13 Q. You cannot?

14 A. No.

15 Q. Well then, in any event, you came to
16 the conclusion that there was a correlation?

17 A. That is correct.

18 Q. And the conclusion was based on data
19 depicted on this chart 1 and on chart 2?

20 A. Yes, sir.

21 Q. Now, on chart 1, as this is a time
22 series analysis and what you are doing here is simple
23 regression -- correct?

24 A. Correct.

25 Q. How did you make certain that there was
26 not a major factor causing the apparent correlation
27 which is not being measured?

28 A. We had this chart shown to a mathematical
29 statistician and we said to him: "We are not mathematical
30 statisticians and you are so will you tell us if there



1 is any technical statistical deficiency in these
2 correlations as shown on charts 1 and 2?" The answer
3 to that was "no, there is not".

4 Q. That is the way you satisfied yourself?

5 A. Yes, sir.

6 Q. Well, let us see if we can look at
7 this and see. You will agree over the years 1924
8 to 1958 that technology has been moving through time?

9 A. I will agree to that.

10 Q. And there has been improved technology
11 in cars on the Canadian Pacific Railway?

12 A. I am afraid we have not investigated
13 whether or not there has been improved technology on
14 freight cars on the Canadian Pacific Railway.

15 Q. Has been improved technology in such
16 matters as train speeds?

17 A. Yes. But I do not see how that has
18 much relationship to this, frankly.

19 Q. There has been some improved technology
20 with regard to train speeds with the Canadian Pacific
21 from 1924 to 1958?

22 A. I will accept your suggestion but I
23 have not checked it.

24 Q. You have not checked it?

25 A. No, I have not.

26 Q. Would you be surprised if it did not
27 exist?

28 A. I suppose I would be, yes.

29 Q. Now, in doing a time series analysis
30 such as you have done would you not agree that you



1 have to make certain that technological changes are
2 not a factor in giving you the result?

3 A. I think your own witness said it is not
4 important.

5 Q. Never mind about what my witnesses said,
6 I want to have your answer.

7 A. I happen to agree with your witness in
8 this particular matter. Technological change is not
9 significant but we did not merely accept Dr. Edwards'
10 word for it, we conducted an independent examination of
11 our own and we concluded that it does not alter the
12 finding that we are making here whether or not the
13 freight cars are new type freight cars or old type
14 freight cars, the fact remains that the fleet is a mix
15 of both old and new and cars of intermediate age. The
16 fact remains ~~that~~ whatever age the freight cars may
17 be they are used more intensively with an increase in
18 traffic. Canadian Pacific own freight cars, in the
19 freight cars on the Missouri line or the New Haven or
20 the Texas-Pacific or the Gulf Coast lines, the Canadian
21 Pacific uses its own cars more intensively as traffic
22 increases.

23 Q. Well now, to arrive at this conclusion
24 that you have done with these two charts, the first
25 chart is to show that intensive use rather than car
26 ownership is the way traffic volume is met with
27 Canadian Pacific and it takes two charts to show this?

28 A. Correct.

29 Q. Now, just for the moment would you turn
30 to chart 2 which is inter-related in your computation



1 and the first question I would ask you about that
2 is: do you think that here that the scatter of your
3 data indicates linear relationship?

4 A. It indicates that there is no positive
5 variation of car ownership with traffic volume. That
6 is the significant indication of this chart. The
7 answer to the question as you phrase it is irrelevant
8 to what this chart shows.

9 Q. Well, you may think it is irrelevant
10 but maybe you could answer me: do you think the scatter
11 of the data on that chart indicates a linear relationship?

12 A. If I might quote a very knowledgeable
13 railway man I would say I know this, that it is always
14 a job of a man of knowledge to shatter the illusion of
15 a person who relies on statistics.

16 Q. Just a minute, I am asking you a question.
17 Looking at the data on chart 2, do you think that its
18 scatter indicates a linear relationship?

19 A. A linear relationship can be computed
20 but it is probably a meaningless linear relationship.

21 Q. Is this trend line which you have put
22 on here fitted for these squares?

23 A. Yes.

24 Q. And is it fitted in accordance with
25 the equation that is set out in the chart, Y
26 equals 34.5 million -- did you consider a pattern of
27 the residuals arising from this regression?

28 A. Mr. Sinclair, we feel that this is
29 an irrelevancy and I will stand on that. You can ask
30 me as many questions as you like and I will be as



1 responsive as I can be. The questions as to the
2 mathematical nature of the line we have drawn are an
3 irrelevancy no matter how the line was drawn or how
4 the scatter might be, it clearly reveals just one
5 significant fact and that is that Canadian Pacific's
6 car ownership does not increase with traffic volume.

7 Q. Have you got a good memory, Mr. Banks?

8 A. Some people think so.

9 Q. Do you remember appearing in the United
10 States before the ICC where you attempted with a scatter
11 diagram to prove that freight claim expenses were not
12 in any way accounted for by increase in prices?

13 A. Freight claim expenses?

14 Q. Of the railways were not a reflection of
15 an increase in prices?

16 A. No, I am afraid I do not remember such
17 a relationship.

18 Q. Well, let me come back to this ---

19 MR. MAURO: Is it being left there?

20 MR. SINCLAIR: If he cannot remember then I
21 cannot ask him.

22 MR. MAURO: You could correct his memory.

23 MR. SINCLAIR, Q: I suggested you attempted
24 to show in ex parti 206, with freight claims experiences
25 of the United States railroads that price increases in
26 the commodities being carried was not a factor in their
27 increased claims experience.

28 MR. FRAWLEY: My friend is an experienced
29 counsel and surely he is going to do something better
30 than that.



1 MR. SINCLAIR: I was prepared to drop it when
2 he said he didn't remember it.

3 MR. FRAWLEY: If he did not remember it you
4 went along and talked about 206.

5 MR. SINCLAIR: I did that at the request of
6 counsel. Do you remember this, Mr. Banks?

7 A. I remember making an analysis in 206
8 which bore some faint resemblance to what was described
9 but nothing relating to freight claims as such.

10 Q. You did not?

11 A. No.

12 Q. I am asking you with respect to chart
13 2 to tell this Commission what is the R^2 and what is the
14 T value of the coefficient?

15 A. Well, I will tell the Commission this in
16 answer to your question: we asked Dr. Bortz, "Is it
17 significant to compute the R^2 or the T value for this
18 relationship?" His answer, and of course this is
19 hearsay but I can only repeat it now since Dr. Bortz
20 was not asked about these charts - "That type of
21 equation is an irrelevancy to what you are trying to
22 show here". That is not an element to get a goodly
23 fitted linear regression for this chart. We are not
24 doing it the easy way, we are doing it the hard way,
25 and we are trying to show what cannot be true, namely,
26 that there is a positive increase in car ownership
27 by the Canadian Pacific as its traffic volume increases.
28 Charts 1 and 2 are mutually interdependent. The
29 Canadian Pacific car fleet can be as a rubber band
30 and when traffic expands the rubber band expands and is



1 pulled about and each freight car is run at a faster
2 pace than when traffic is at low levels. If this,
3 is true then it is not necessary for the Canadian
4 Pacific to buy cars every time its traffic increases,
5 not only every time but over the long term. We
6 measured this over a period of time as long as the
7 loading of a freight car which is by any ordinary
8 standard or any extraordinary standard a period long
9 enough for the Canadian Pacific to have adapted its
10 capital, its policies and personnel to changes in its
11 anticipated traffic volume. I suggest to you that
12 these charts demonstrate that Canadian Pacific has
13 not altered its car ownership requirements to meet
14 traffic volume, instead what it has altered is the
15 intensity of use to which it puts these cars.

16 Q. That is your answer?

17 A. Yes, sir.

18 Q. Would you now take a look at this chart.

19 THE CHAIRMAN: No. 1 or No. 2?

20 MR. SINCLAIR, Q: It is No. 2. The point
21 you plotted, 1928, will you join 1928 and 1938? Just
22 join the two points. Does that give you a line of
23 positive slope?

24 A. Yes.

25 Q. Would you join together the six years,
26 the top part of the chart being 1924 to 1928 with the
27 years 1933 through 1938 and average them roughly and
28 draw the two average points together. Does that give
29 you a line of positive slope?

30 A. A line which only indicates that as the



1 C.P.R. has said, you can do anything with numbers.

2 Q. Well now, Mr. Banks, I ask you a question:
3 does that indicate a line of positive slope?

4 A. In the way that you have laid it on it
5 gives you a line of positive slope.

6 Q. All right, I suggest to you that this
7 data that you have here, chart 2, shows three
8 groups each of which, if you fix a line, would not
9 support the line of negative slope that you put into
10 this chart 2. Take the years at the top of the chart,
11 the group 1924 through 1938 and if you fitted the line
12 across on data I suggest to you it would be horizontal.
13 Do you agree with that?

14 A. Roughly, yes.

15 Q. If you took the 1930's to 1940's and
16 put a line through that data I suggest to you it would
17 be perpendicular?

18 A. That appears to be approximately correct.

19 Q. And if you took the balance of your
20 data, that is the years 1941 to 1958 and fitted a
21 line through that group of data you would have a line
22 of positive slope?

23 A. Well, I am not certain about the latter
24 but you may be correct.

25 Q. And I suggest to you that by grouping,
26 as I have suggested to you and we have just discussed,
27 that this indicates that freight car ownership has
28 been adjusted to traffic volume by looking at the fall
29 off in traffic between the late 1920s and down through
30 the 1930s.



1 A. I suggest you cannot reconcile the
2 conclusion that you are drawing from this exercise
3 we have gone through with the data shown in chart 1.

4 Q. You said they were completely inter-
5 related and I am asking you -- I agree with you they
6 are completely inter-related, charts 1 and 2, but I
7 am asking you that when you have a completely inter-
8 related set of data that if one of the inter-related
9 pieces of data is wrong then, of course, I do not have
10 to deal with the other.

11 A. They are inter-related on the basis of
12 mutual exclusivity.

13 Q. You are suggesting they are related on
14 the basis that they are mutually exclusive?

15 A. I am suggesting if chart 1 is true then
16 chart 2 cannot, if the data -- the data shown in there
17 cannot have a positive slope. If you will permit me
18 to expand on this: if you increase the use of your
19 cars, if business gets good, why then do you have to
20 buy more cars to accommodate increased business?
21 It does not make sense and this chart demonstrates that
22 in our judgment if you have a certain volume of traffic
23 and that volume of traffic requires you to operate
24 your cars ten miles a day, your traffic increases to
25 a level double that at which it had previously been
26 experienced and you run your cars twice as fast then
27 you do not have to buy any more freight cars. This is
28 exactly or roughly what Canadian Pacific experience
29 has been over the years. Both of these charts confirm
30 this conclusion in my judgment.



1 Q. Say the size of the cars was twice as
2 big and the trains were moving twice as fast, under that
3 kind of basis do you think you would have any cars at
4 all?

5 A. I do not think that the size of cars
6 has any particular alteration of the conclusion you
7 would find. We checked into it and I have buried
8 in this data somewhere a graph which demonstrates this
9 fact and if you like we can try and dig it out for you.

10 Q. I am only interested in the data you
11 have put before the Commission and I am going to
12 suggest this to you: is it your view that Canadian
13 Pacific has not got enough normal retirements of freight
14 car equipment in a yard to adjust by non order that
15 traffic volume?

16 A. I am sorry, I do not understand that
17 question.

18 Q. I will put it this way to you: what
19 do you think is the normal retirement of boxcars on
20 Canadian Pacific through mishaps and age?

21 A. Number or percentage of the fleet.

22 Q. Number?

23 A. I really do not know.

24 Q. Well, there would be some.

25 A. Oh, undoubtedly there would be some and
26 there would be replacements.

27 Q. And it would be a meaningful figure?

28 A. Perhaps it may mean different things to
29 different people.

30 Q. And the Canadian Pacific each year has to



1 decide whether it is going to buy replacements for
2 these cars destroyed through mishaps or they run through
3 their age cycle; they have to make that decision?

4 A. My suggestion ---

5 Q. Do you agree?

6 MR. MAURO: Answer in your own fashion.

7 THE WITNESS: All right, yes.

8 MR. SINCLAIR, Q: In making that decision
9 as to whether they will replace cars that retired
10 through mishap or age cycle, they have to take into
11 account the volume they are now carrying, do they not?

12 A. Yes, I would think that is true.

13 Q. And they have to make allowance for the
14 carrying capacity of cars and the speed with which they
15 can move over the road and how it will be possible to
16 handle the tonnage.

17 A. Well, the data shows, irrespective
18 of the decisions that may have been made that over the
19 years the decisions that were made were to the effect
20 that the size of the fleet would not increase despite
21 the fact that your traffic today is substantially
22 heavier than it was at the beginning of the period
23 that we analysed.

24 Q. To a statistician, a cost analyst or
25 a practical man I suggest to you the very fact that
26 your data showed you that should have made you, I
27 suggest, wary as to whether you had group data that
28 was not truly presenting a linear function, would you
29 agree?
30



1
2 A. Insofar as chart No. 2 is concerned,
3 certainly there is no linear function, but by the same
4 token there is also no linear function as to car
5 ownership on the C.N.R. This is exactly the point we
6 are trying to make. If you cannot prove a positive
7 linear function you cannot assume it to be linear cost.
8 In the present study of cost analysis what is not shown
9 to be variable is treated as constant. This is what we
10 have done.

11 Q. Look at chart No. 1: I suggest to you
12 it does not take much to show you by casting your eye
13 on it in the group of the year; this was brought to your
14 attention when you filed it by myself, that you have not
15 got a random distribution in the residuals, that you have
16 not in approaching that assessment considered the pattern
17 of the residuals or you would have discarded this graph;
18 do you agree?

19 A. Again I hope this very knowledgable
20 railway man ...

21 Q. Do you agree?

22 A. ... who said, "Are we not up against
23 this problem, that no matter what statistics tell us
24 we have to test that -- the statistical answers -- by
25 what we know?", and what we know, or what you folks have
26 called the "K" test, indicates that when you use a car
27 more intensively you do not have to buy another one to
28 do work on the same basis as obtained at low traffic
29 volume levels.

30 Q. That may be, but my question to you is



1
2 that technology working over this time in the railway
3 industry where you correlate thousands of loaded car
4 miles per car owned without giving weight to that change
5 in technology will bring out a wrong answer, and the
6 way you check it is by looking at the pattern of the
7 residuals and the grouping of the years will show you have
8 not got a random distribution of the residuals. You have
9 got groups; do you agree?

10 A. No, I do not agree.

11 Q. Mr. Banks, you agree that the railway
12 fleet is made up of a number of individual units?

13 A. Yes.

14 Q. And that the destruction of a number
15 of those units, or a part of that, does not destroy the
16 fleet?

17 A. Agreed.

18 Q. And in this regard it is entirely
19 different than a unitized structure such as this
20 building we are in today?

21 A. Not entirely different because the
22 fleet is an entity in the way you folks have treated it
23 in your cost study, and in attempting to analyze this
24 we have treated it the same way you did. We treated the
25 number of freight cars as a whole and not by individual
26 unit, and I have here this chart I have been searching
27 for --

28 Q. Would you let me finish this question
29 and I will then give you an opportunity to refer to the
30 chart. My question to you is this, that the freight car



1
2 fleet of Canadian Pacific is made up of a number of
3 individual units?

4 A. It is, yes.

5 Q. And the destruction of a number of
6 those individual units does not destroy the fleet?

7 A. Correct.

8 Q. And in this respect it differs from
9 a unitized structure like a building where a destruction
10 of a part of the building materially affects the
11 building -- it affects the whole unit; correct?

12 A. All right, we will accept that.

13 Q. Now, you wanted to refer to some chart.

14 A. Yes, a chart which we prepared but
15 which we have not reproduced, but you may look at it,
16 of course, in which we have plotted the relationship
17 between loaded freight car miles per ton of capacity
18 only against traffic volume measured the same as on
19 charts 1 and 2, and it again confirms what I assumed.

20 Q. Is this a bi-variance analysis
21 again?

22 A. Again.

23 Q. Is this an attempt to measure
24 technology?

25 A. Yes.

26 Q. Where is the train speed, so you can
27 get the technological working to size and speed?

28 A. You are suggesting that we with our
29 very limited resources do the type of analysis that
30 Canadian Pacific was content not to do. They just accepted



1
2 the conventions of these matters and did not make any
3 investigation whatsoever, and when we make an
4 investigation, then you are suggesting we did not do it
5 properly, and maybe we did not do it properly; but we
6 certainly tried hard, and you folks just accepted what
7 has been used over the years without any question
8 whatsoever.

9 Q. Mr. Banks, I suggest to you that the
10 way you could have tested it and to hold technology
11 constant was to do a cross-section analysis over a
12 number of railways?

13 A. You said this morning --

14 Q. Would you agree?

15 A. It was not possible to do that. You
16 said this morning in answer to something I said that you
17 preferred to stick to Canada, and in every case where the
18 cost analysts for the provinces and the grain trades, in
19 those few cases were required to use United States
20 analogies such as the one we employed in connection with
21 the rail communication expense, you objected and said
22 this is a Canadian study and not a United States study.
23 We made a substantial effort to confine our analysis to
24 Canadian experience and not United States experience, and
25 I suggest to you, sir, without going further on this
26 same line, when it came to analyzing the United States
27 experience on road engine repair you rejected this
28 completely. Your analyst made in his famous green book
29 an analysis of road engine repair in which he found there
30 was a substantial element of constancy.



1
2 Q. Our witness made in his famous green
3 book ...?

4 A. Yes, sir.

5 Q. You mean Dr. Ford K. Edwards?

6 A. No, I have both --

7 Q. Oh, I did not know that was a green
8 book. I thought that was a red book.

9 A. Well, I beg your pardon: the green-
10 jacketed book, and the red book.

11 Q. Yes, that is right.

12 A. In this book it is shown that by a
13 cross-section analysis of the United States railroad
14 technology there is a substantial constant element in
15 road engine repair. However, when it comes to Canada
16 the C.P.R. says, "We are not interested in United States
17 experience. This is a Canadian study. Our road engine
18 repairs are charged out on a run-out mile basis", and
19 run-out miles are obviously completely variable with
20 the traffic. So, when it comes to road engine repair
21 we accept the Canadian experience, of course. However,
22 when it comes to freight cars, there we must reject the
23 experience in Canada...

24 MR. SINCLAIR: Mr. Chairman ---

25 THE WITNESS: ... and turn to the United
26 States.

27 MR. SINCLAIR: I must say, if this is
28 an answer to the question I put I am very much surprised,
29 and I am asking the Commission to ask this witness to
30 try to be responsive to the question.



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MR. FRAWLEY: I do not know whether this is for the record or for some other purpose years from now.

MR. SINCLAIR: It can be taken off the record.

MR. FRAWLEY: I think it is better to have that sort of remark off the record.

MR. MAURO: If my learned friend would confine himself to the cost conference we would have concluded this cross-examination by now.

MR. SINCLAIR: Well, I would like the witness to be more responsive.

MR. FRAWLEY: I protest. That is not fair. If that is going on the record, then I want my remark on the record that I challenged my friend. The witness indicated, not only by words but by the way he addressed himself to counsel that he was trying to be responsive. My friend Mr. Sinclair is basically a fair person.

MR. SINCLAIR: He is always a fair person.

THE CHAIRMAN: Put the question, and if the answer has to be long it will have to be long.

MR. SINCLAIR: Yes, but it may not have to be long.

Q. Let me ask you this: ---

MR. FRAWLEY: Well, are we just using pages up in the record. He is being sincere about it, Mr. Sinclair, surely.

MR. SINCLAIR: I am not going to start questioning people's sincerity.



1
2 Q. Mr. Banks, you made reference to
3 an element of constancy in locomotive repairs as made
4 reference to in the book of Myer, Zwick and Stenason?

5 A. Yes, sir.

6 Q. And I suggest to you that the reason
7 that that was indicated was that there was what is known
8 as major purchase maintenance because the data was tied
9 into an age cycle that did not reflect repairs and miles
10 of locomotives, and that had been accepted by all cost
11 analysts who have considered the data; would you agree?

12 A. No, sir, I am afraid I would not.

13 Q. Then I say to you further, Mr. Banks,
14 that what I suggested you do with respect to holding
15 the technology constant, taking a cross-section analysis
16 was a procedural test. I am not asking you to accept
17 any questions of variability. I am asking you to test
18 your hypothesis by looking at a cross-section analysis
19 from data on other railways. Have you done it in regard
20 to charts 1 or 2?

21 A. You are asking me to test particular
22 data against the experience of other railways which is,
23 of course, something that the C.P.R. neglected to do
24 with respect to road engine repairs, and in suggesting
25 this is a study of Canada and not the United States you
26 folks have made this abundantly clear, and we are quite
27 in agreement with you and we cannot have it both ways.

28 Q. Have you attempted to test the effect
29 of technology by making a cross-section analysis, which
30 is the only basis, I suggest to you, where you can hold



1
2 technology constant if you cannot adjust for it? Would
3 you agree with that -- that you cannot hold technology
4 constant -- you either have to adjust for it or do a
5 cross-section instead of time series analysis; would you
6 agree with that?

7 A. I would answer that by quoting from
8 this very enlightening treatise at page 40 of the
9 Stenason, Zwick book, which says "Actually, the differences
10 in the two types of analysis are likely to be mainly
11 differences in degree."

12 And at page 41 it says: "The real difference
13 between time series and cross-section cost studies will
14 usually reduce to differences in the number, kind and
15 extent of changes in capital structure explicitly measured
16 in the two analyses."

17 This again, like all words, may mean
18 different things to different people. To me it means
19 primarily that if you take a long enough time series you
20 are going to correct for the majority of technological
21 factors or, in the alternative, if you make enough time
22 series you will accomplish the same purpose.

23 Q. That is what you think you can do with
24 the time series analysis, and then you say you do not have
25 to make an adjustment for technology?

26 A. I did not say you do not have to do it.
27 I said in this case we were making a Canadian study and
28 therefore we relied on Canadian experience, the same as
29 the C.P.R. did with respect to road engine repair.
30



1
2 Q. I suggest to you, you could have relied
3 on Canadian experience if you knew how to measure
4 technology, and if you put it into chart 1 that your
5 result would not have been the same; do you accept that?

6 A. No sir. As I suggested to you, we made
7 a time series measurement of technology changed by a
8 relationship measurement here involving the loaded freight
9 car miles per ton of capacity only, and the result was the
10 same.

11 Q. But I suggest to you that you cannot
12 do technology by taking only one element? Are you
13 suggesting that the speed of trains over the road is not
14 a factor of technology in the railway industry and that
15 it is not reflected in the intensity of car ownership?

16 A. I suggest it has very little to do with
17 car ownership indeed, yes sir.

18 Q. We have your opinion, thank you very
19 much.

20 I think you have stated in one of your
21 earlier answers that to be taking one part of freight
22 car depreciation to be variable and the other constant
23 is not in accordance with any of the conventional methods
24 of treating this expense account?

25 A. Yes.

26 Q. Now, maybe I can return and handle
27 this memorandum of yours on the basis of starting at
28 the beginning of it, but rather than do that now, maybe
29 we could take the recess.

30 THE CHAIRMAN: Yes.

--- A short recess .



1 THE CHAIRMAN: Order, please.

2 MR. SINCLAIR, Q: At page 2 of your memorandum
3 designated memorandum No..2 -- this is at volume 116,
4 page 19207 of the transcript -- you said:

5 "The realistic objective of railway
6 costing is to establish a reasonable
7 identification between traffic and cost."

8 And later on that same page, you say:

9 "The intent of Manitoba and Alberta
10 is to advance estimates which refine those
11 submitted by the railways."

12 Those extracts that I have taken from your submission
13 to this Commission, Mr. Banks, state the objective
14 of railway costing and the intent of the suggestion
15 you are putting before this Commission?

16 A. Yes, Mr. Sinclair.

17 Q. Now, the first refinement I wish to draw
18 to your attention is in regard to track maintenance
19 expense, and you deal with this commencing at the bottom
20 of page 4 of your memorandum No. 2, and this is found
21 in the transcript volume 116, page 19209 and following.

22 Mr. Banks, your appraisal of minimum track
23 maintenance expense resulted in the development of
24 a figure of \$742.52 per mile, and that is set out at
25 the top of page 6 of your memorandum?

26 A. Well, there are two figures actually
27 involved, Mr. Sinclair.

28 \$742.52 is the basic unit cost of road
29 maintenance and depreciation per mile of track, and
30 \$947.46 is the estimate of irreducible size-related



1 track maintenance and depreciation costs which included
2 several of the associated or related accounts.

3 Q. The difference, surely, Mr. Banks, is
4 that the minimum traffic depreciation expense is the
5 figure, \$742.52, and the other figure merely adds to
6 it overheads, such as pensions, and matters of that kind?

7 A. Not only that, but other -- superintendents,
8 fences, snow sheds, signs.

9 Q. Well -- but in this figure of \$742.52
10 you include labour and material, including, for instance,
11 foremen for the maintenance of a track so that it is
12 in a position to carry traffic, but does not reflect
13 the maintenance required by traffic?

14 A. I think that is right, yes.

15 Q. Now, in maintaining track so that it is
16 in a position to carry traffic we can agree, I take it,
17 that weather, such as the amount of heating on account
18 of frost, attracts minimum track maintenance expense?

19 A. No. I am afraid we cannot agree to that
20 -- not in the sense in which these costs have been
21 arranged for the purposes of this study.

22 Q. I suggest to you, Mr. Banks, that such
23 items as erosion of sub-grade, lining and surfacing
24 as arising from frost action, removal of vegetation
25 such as weed and brush, ditching, clearing crossings,
26 cleaning snow from switches -- these, and of like
27 type are matters that have to be reflected in the
28 minimum track expense if you are looking for the
29 cost of having a line in a position to carry traffic,
30 but not reflecting the effect of traffic on the track



1 structure and the maintenance required by traffic?

2 A. I agree with you, and I think that
3 we have taken care of these costs in our computation
4 thereof.

5 Q. Do you agree, Mr. Banks, that in arriving
6 at minimum track maintenance expense to keep the line
7 in a position to carry traffic, but without reflecting
8 the effects of traffic on maintenance, that if you
9 look at line abandonment data you would have to make
10 certain that you were not dealing with data that had
11 involved in it deferred maintenance?

12 A. In looking at branch line abandonment
13 data, such as you describe, we were guided by the
14 general dictum laid down by Dr. Ford K. Edwards in his
15 exhibit T635 in the Transcontinental Divisions Case
16 in which he said, and I quote approximately:

17 "Branch line abandonment data afford
18 a very valuable guide to the level of
19 irreducible track maintenance costs."

20 Now, that is not an exact quotation. However,
21 we can get the exact quotation if you prefer it.

22 Q. It is your recollection of it, and may
23 I ask you the question now, and please could you answer
24 it, that in looking at branch line abandonment data
25 and using that to arrive at minimum track maintenance
26 expense, you have to make certain that you make an
27 allowance for deferred maintenance if deferred
28 maintenance in fact is a figure?

29 A. Sir, we do not use that for the purpose
30 that is suggested by your question. We developed



1 an independent engineering system which includes the
2 elements that you previously mentioned of erosion of
3 sub-grade and highway crossings and weed elimination
4 and so on.

5 Q. Pardon me, Mr. Banks. Don't always
6 assume that I am attacking something that you have done,
7 until I do attack it.

8 A. I have been under a very unfortunate
9 illusion, sir, and I apologize.

10 Q. I will put the question to you. If you
11 are going to use branch line data in abandonment cases,
12 you have to, if there is deferred maintenance in fact,
13 in looking at minimum track maintenance expense, make
14 allowance for that deferrment. I am asking you if you
15 agree?

16 A. Sir, I cannot give a yes or no answer,
17 but I will try to be responsive if you will permit me
18 to.

19 We made quite a study of these two documents,
20 and I am sure you recognize them. They provide for
21 the maintenance practices of these two railways, and
22 they set up certain standards.

23 MR. COOPER: Perhaps you could indicate
24 the exact title of the two documents to which you are
25 referring, Mr. Banks.

26 THE WITNESS: Yes, sir.

27 MR. SINCLAIR: Maintenance of way rules,
28 Canadian Pacific and Canadian National, is good enough,
29 I would think.

30 THE WITNESS: Yes.



1 MR. SINCLAIR: Everybody knows what that
2 means, without putting the whole thing on the record.

3 THE WITNESS: Yes. These documents provide
4 for certain standards of maintenance under certain
5 assumptions which are not stated.

6 It is our view that the deductions as to
7 minimal maintenance that an engineer might make from
8 a review of the Canadian Pacific maintenance of way
9 rules would lead one to a higher standard of
10 maintenance and to a greater expense for track
11 maintenance than is actually required on a minimum
12 irreducible track basis. And this is simply because
13 Canadian Pacific, as a well run railroad, maintains
14 its track more expensively and to a higher standard than
15 some railroads which do not have the Canadian Pacific's
16 financial resources.

17 Q. You mean by that that Canadian Pacific
18 wastes money on its track?

19 A. Oh, not at all. I am saying that what
20 Canadian Pacific considers to be a deferred standard
21 of maintenance is the normal operating routine of an
22 engineer who does not know from one year to the next
23 whether his budget is going to be \$20,000.00 or
24 \$30,000.00.

25 Q. Well now, maybe I am beginning to
26 understand you. I think we are in agreement, then,
27 that in looking at branch line abandonment data if
28 there is deferred maintenance that has to be taken
29 into account in looking at minimum track maintenance
30 expense?



1 A. Sir, we would -- I would agree, it has
2 to be taken into account. But the way in which it is
3 taken into account by a Canadian Pacific engineer of
4 track, say, would be different than the way it is
5 taken into account by the engineer of track
6 of the Tremont and Gulf Railway or of the Camas
7 Prairie Railway, or of any of the numerous short lines
8 that we have in various parts of the States operating
9 on minimal maintenance budgets.

10 Q. Yes, and minimum track maintenance
11 expense will be higher, I think you will agree, where
12 climatic conditions require more work by maintenance
13 forces and more hand work than where weather permits
14 mechanization to a higher degree?

15 A. It would undoubtedly require more hand
16 work, but your question verges on one of the most
17 interesting areas of railway technology, and one of
18 those which is the least explored.

19 You folks, in your cost study, have defined
20 minimum track maintenance as a term which is synonymous
21 with size-related costs, and I submit to you that
22 climate has nothing to do with the scope of the Canadian
23 Pacific Railway. I believe it has more to do with
24 geography and the fact that you operate in a northern
25 latitude.

26 Q. Well then, you would expect minimum
27 track maintenance in a northern latitude to be higher
28 than in, say, for instance a railroad south of Chicago?

29 A. Conceivably it may be.

30 Q. Well, if you were looking at data ---



1 A. Excuse me, I think we are together on
2 this. But part of this minimum might be what you
3 have called size-related, and part of it may be what
4 we have called geography.

5 Q. So that, if you take data from branch
6 line abandonment cases in the United States, you would
7 first have to look at where the railroads are; correct?

8 A. Yes, sir.

9 Q. And then you could, of course, by taking
10 a number of different railroads in the United States,
11 and weight them out from the mileage involved in the
12 application arrive at a weighted average cost in these
13 abandonment cases? Correct?

14 A. I believe that is correct.

15 Q. And then you would look to see if the
16 ICC in their determinations and in the presentations
17 in those abandonment cases had found deferred maintenance ;
18 correct?

19 A. I would like to bring to your attention,
20 sir, that there were branch lines and main line
21 trackage in this group of abandonment dockets that we
22 are talking about.

23 Q. Yes, but whatever it is -- if it is
24 main line, branch line track, or branch line from
25 branch line track -- my question is, having arrived
26 at the figure, you would then have to take a look
27 to see whether there was deferred maintenance found
28 in these situations and plush your figure by some
29 factor for deferred maintenance?

30 A. You would certainly have to look at



1 whether there was deferred maintenance, but before you
2 did that you would have to define what constitutes
3 deferred maintenance. Is it on the Canadian Pacific
4 basis, or on the Tremont and Gulf basis, or on the
5 Live Oak, Perryland Gulf basis?

6 MR. FRAWLEY: The Chairman is on deferred
7 maintenance. I know that from experience.

8 THE CHAIRMAN: Oh, it is very old.

9 MR. SINCLAIR: I don't know what that
10 interjection by my friend was meant to convey. I
11 will read it in the transcript and perhaps I will
12 understand it then.

13 MR. FRAWLEY: When you read it in the
14 transcript, yes, you will perhaps understand it.

15 MR. SINCLAIR: Whether Mr. Frawley is just
16 obfuscating something which he does not want the
17 Commission to understand, or whether he is trying to
18 be helpful, I do not know.

19 MR. FRAWLEY: I have to add the name of Sam
20 Billy to that to make it comprehensive.

21 MR. SINCLAIR, Q: All I will say to the
22 witness is this, that you produced certain data which
23 you listed as the number of railways dockets, this
24 document which I am showing to you?

25 A. Yes.

26 Q. I have weighted out the total railway
27 mileage there and the branch main track; that is, the
28 main track of the branch line, not taking into
29 account the side tracks of the branch line, and I come
30 to a cost there of \$994.00. That is on a weighted



1 average, weighted by the miles of track.

2 A. The figure you give me corresponds
3 to a \$992.00 figure that we arrived at, and this
4 \$2.00 difference illustrates the kind of differences
5 we have been having at some length in this activity.

6 Q. I have just run these down roughly.
7 If I want to put it through a machine ---

8 A. The average costs per total track
9 mile side track and main line together is only \$955.00,
10 and further than that this list is an incomplete
11 list. The list of 88 cases which was the complete
12 list I have with me now. I did not have it when I
13 was at the cost conference. It will reveal an even
14 lower figure.

15 Q. Let us go on the figures that you did
16 produce for us to look at. You got \$992.00; I got
17 \$994.00.

18 A. Per main track. Per main line track mile.

19 Q. Per main line of branch line?

20 A. Correct.

21 Q. Yes, it is not main lines at all. You
22 are dealing with branch lines throughout here?

23 A. We are getting into the code of
24 operating rules. It is main line. It is main line
25 of what is in the economic sense a branch line.

26 Q. This is headed "Miles of branch main line".

27 A. Fine. We are in agreement.

28 Q. And I suggest to you that in the data
29 that you produced there is some four odd miles shown
30 on your data on which there has been found deferred



1 maintenance and a cost associated with the rehabilitation
2 of the line so that it could carry traffic?

3 A. And I suggest in return, sir --

4 Q. Is that correct?

5 A. I do not know. I have not analysed it,
6 but I have analysed it to the extent of finding that
7 when the individual dockets are analysed there are
8 statements by those who answered the questionnaires
9 that costs were over-estimated since, in many instances,
10 siding trackage was not used in computing the cost
11 per mile of track.

12 Q. This is the data you gave us. I am
13 saying to you on the data you gave us you showed in
14 one column "estimated rehabilitation cost". I have
15 calculated it at a little over 400 odd miles.

16 A. Surely you must understand that I did
17 not show any estimate of rehabilitation cost. This was
18 an estimate made by a different engineer in every single
19 docket. All we did was to gather the data in an
20 attempt which we hoped would be helpful to the members
21 of the Commission and their staff.

22 Q. Yes. Well, maybe, Mr. Banks, and all I
23 will suggest to you is that if you take this and just
24 take a sample average based on those 400 odd miles,
25 the estimated cost of rehabilitation due to deferred
26 maintenance comes too close -- it is a little under
27 \$6,000.00 a mile?

28 A. Well, Mr. Sinclair ---

29 Q. Have you made ---

30 A. Surely, as a person who is knowledgeable



1 of transportation matters, you will appreciate that
2 the railways in seeking to abandon these lines would
3 not estimate these costs of rehabilitation at a low
4 level. They wished -- it was their job, the job of
5 their engineers to help their attorneys to get rid of
6 --to shuck off, so to speak, this dead wood from their
7 lines. Consequently, they were not going to estimate
8 the minimum the job could be done for, but rather
9 what it would be done for if it was done for Canadian
10 Pacific's high standards.

11 Q. That is your appreciation of the way
12 engineers operate in abandonment cases?

13 A. This is my appreciation of the way some
14 of them operate in abandonment cases.

15 Q. Well, let me ask you this: of these dockets
16 that we have been talking about, and the lines of
17 railways that they involve, which show for the main
18 track of the branch lines a weighted average cost,
19 minimum cost of \$994.00, with the certain amount of
20 deferred maintenance, I suggest to you that an examination
21 of the dockets will show that more than 50 per cent
22 of the mileage involved is south of Chicago. Would
23 you accept that knowing the docket?

24 -

25 -



1
2 A. I am not familiar enough with these
3 dockets but it may well be true. However, the important
4 conclusion that one ought to draw from this data perhaps
5 is contained in this same Trans-Continental Divisions
6 case examiner findings that we quoted this morning, I.C.C.
7 No. 31503 where it is said as of 6th December, 1960:

8 "The defendants ... further urge that
9 'for application of costs based on 1956
10 operations, a fair and realistic figure
11 to use as the constant cost of maintaining
12 a line of railroad is \$989.00 per track
13 mile.'"

14 Then:

15 "This figure is largely derived from returns
16 to questionnaires filed with the Commission
17 in abandonment proceedings. The problem
18 presented is highly technical and
19 complicated. An authoratative solution
20 would apparently call for exhaustive
21 engineering research. For that reason we
22 are unwilling to accept the defendant's
23 theories."

24 Now, this is the view that we share.

25 Q. Would you agree, therefore, that looking
26 at abandonment cases in arriving at minimum track
27 maintenance costs it can be fraught with some difficulty
28 of assessment.

29 A. Dr. Ford K. Edwards has said that
30 abandonment cases "provide a valuable measure of the



1
2 minimum (constant) maintenance costs on the very light
3 density lines as to which abandonment is sought." I agree
4 with him.

5 Q. You will agree that the engineering
6 analysis is important and of assistance in arriving at
7 minimum track maintenance expenses?

8 A. Yes sir, and if I might add a bit to
9 that assent; we include in our computation of minimum
10 maintenance cost a contingency factor amounting to
11 \$50.00 per track mile. This contingency factor, we
12 submit, is adequate and more than adequate to take care
13 of the maintenance to highway crossings, of repairs to
14 eroded subgrade and the type of thing that was not
15 explicitly set forth in the work ~~paper~~ we furnished to
16 Canadian Pacific.

17 Q. In the calculation of minimum track
18 maintenance expense how much per mile do you allow for
19 the cost of track labour aside from labour for tie renewal?

20 A. Well, to begin with we had bridge and
21 building labour and material and we would use Canadian
22 Pacific data without any adjustment and come to a figure
23 of \$120.00 per mile.

24 Q. My question is -- I am sorry, I am
25 sure it is my fault that we get at cross-purposes -- my
26 question was, how much do you allow for track labour,
27 not B and B labour, track labour aside from tie renewal?
28 How much do you allow on your figure for minimum track
29 costs for track labour aside from labour for tie renewal?

30 A. We did not have the numbers quite set



1
2 up that way. If you will wait just a moment I will see
3 if I can give you a number.

4 Q. Are you looking at working paper KB7?

5 A. I am not now. I have a figure which
6 is similar to that.

7 Q. The work paper that I have have before
8 me which was given to me by our cost analyst which was
9 given to them by you does not, I suggest to you -- work
10 paper KB7 -- show any track labour except track labour
11 associated with tie renewal. It is shown as the second
12 item on this work paper. If I am misintepretating it I
13 will be glad if you tell me?

14 A. No sir, you have interpreted it
15 correctly. My rejoinder to you would be that the only
16 track labour that one could conceivably attach to
17 minimum standards of labour of track maintenance would
18 be in connection with items that are provided for in the
19 contingency of \$50.00 per track mile which you will also
20 note on work sheet KB7.

21 Q. If I suggested to you that minimum
22 track labour to maintain a line on Canadian Pacific
23 so it is able to handle traffic and not reflect any
24 maintenance required by traffic was one man for six
25 miles, approximately, would you think that would be
26 satisfactory?

27 A. No, sir.

28 Q. You asked for certain information and
29 it was supplied to you by the engineer of track of
30 Canadian Pacific?



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A. That is right.

Q. And you did not use his figures?

A. No, as a matter of fact we used more conservative figures. Generally speaking, he gave us a 38 year tie life and we used a 30 year tie life although there is data to indicate that 40 years would have been a not uncommon figure. We cut that in half because we were trying to be conservative in the light of the definition of minimum standards of maintenance.

Q. I suggest to you that your tie labour track costs as you have calculated it being the only track labour cost in your 742 minimum track maintenance expense per mile is \$227.00 odd.

A. And the \$50.00 for contingencies, please do not forget that.

Q. All right, taking the contingency and adding it in that makes it \$257.00.

A. And please also do not forget that other constant cost we have described as geography.

Q. If you do not mind, I am trying to get the numbers right off your exhibit.

A. All right, go ahead.

Q. The figures I have given you for track labour you say are made up of \$227.00 being track labour referable to tie renewals and you are putting the whole of \$50.00 that you have for contingencies as a track labour expense, are you?

A. Not exactly, whatever portion may be required.



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Q. What part --

A. Would you care to suggest to me what was omitted? Here we are trying to cost something which is a matter of thin air. If you have a specific element of minimum track maintenance which has been omitted from our computation than please tell me.

Q. I suggest to you you have failed to reflect in your figure anything for track labour expense except tie renewal and some factor in your contingency column and that in the light of the weather conditions in Canada such a figure of track labour for minimum track expense is completely unrealistic and may be as much as \$300.00 and more short of what the true figure should be.. I ask you if you would agree with that suggestion.

A. I certainly would not agree with it. I assume you are talking about lining and servicing track for frost heaves.

Q. That is one of a number of items I have in mind.

A. Will you specify the others?

Q. The others would be cleaning crossings, for instance, checking switch points, checking bridges, checking rail and the normal work of the section forces that they do to keep their track in operation to receive traffic but without reference to the traffic moving over them.

A. Well, we are now in a semantic morass which I fear surrounds this area -- to receive traffic but not connected with traffic.



1
2 Q. I am ~~not~~ interested when you say we
3 are dealing with semantics.

4 A. I say if you are maintaining a track in
5 anticipation of traffic then it is traffic connected
6 which, by definition, is variable. I say if we have a
7 figure for maintaining a certain crossing which amounts to
8 \$5.05 per mile of track ---

9 Q. Where is that in your figures?

10 A. It is not in my figures.

11 Q. Where did you get it?

12 A. I got it by an independent engineering
13 estimate.

14 Q. It is not on KB7?

15 A. No, it was developed subsequently when
16 your cost analyst at the cost conference was good enough
17 to suggest for us, in accordance with the rules laid down
18 for conference, what we had omitted. I further found out
19 that there are intervals as great as 76, 74, 68, 45 miles
20 of line on the Canadian Pacific where there are not
21 any highway crossings whatsoever and that where highway
22 crossings do exist that our figure of \$5.05 is a very high
23 figure in many, many instances.

24 Q. One other item --

25 A. Are you going to give me a number to
26 suggest some of the costs you have outlined are excluded
27 in our figure or is the record to show only that you
28 suggest that it is exclusive therefrom?

29 Q. Well, the \$5.00 is not specifically
30 excluded, we now know that.



1
2 A. Part of the contingency and on repairs
3 to eroded subgrade, we estimate that at \$40.50 per track
4 mile per year and that is also in contingency.

5 Q. And for ditching?

6 A. Ditching is part of the repairs to
7 eroded subgrade.

8 Q. You have included that?

9 A. Yes, as a matter of fact I personally
10 have ridden a railroad since the last time I was in
11 Canada on which there has been no ditching done for 45
12 years and there were open sections, cross-joints so big
13 that you could almost put a cat into them. This railroad
14 operated and it has thousand ton road switching
15 locomotives and was handling somewhere in the neighbourhood
16 of 40,000 to 50,000 cars per year. It was not up to
17 Canadian Pacific standards.

18 Q. Was it a sugar railway?

19 A. No, it was part of the same railway
20 system of the United States and the locomotives weighed
21 125 tons and they had axle loadings similar to those
22 which Dr. Borts stated to you on your cross-examination
23 of him. I suggest that some of the costs that you are
24 attaching here do not relate to minimum standards; I do
25 not think Canadian Pacific knows what minimum standards
26 are because you do not have to resort to them. You should
27 not resort to them, you have a good railroad so keep up
28 your high standards.

29 Q. I bow down to your knowledge of what
30 Canadian Pacific knows and I am very happy that you have



1
2 come up here to tell us about it because you are such
3 a knowledgable fellow it is going to be of great benefit
4 to us, I am sure. Now, would you answer this for me,
5 please: in your minimum track maintenance expense you
6 have come to this conclusion that the only cost
7 associated with rail are those associated with traffic
8 moving over the rail and time; is that a proper summary?

9 A. No, there may also be some cost
10 associated with climate, the result of your frost
11 heaves which no doubt are quite a problem up here in
12 Canada.



1 Q. But in regard to obsolescence as a factor
2 requiring rail change-out -- have you taken that into
3 account?

4 A. My answer is that the same railroad I
5 told you about before has rail in place today which
6 is 88 years old, and it is good rail and can last quite
7 a while.

8 Q. That is your opinion?

9 A. It is the opinion of the engineer of
10 track who accompanied me. Rail does not obsolesce
11 in the same sense you wish to attach to it.

12 Q. Have you taken into account in minimum
13 track maintenance expense any factor for obsolescence
14 of rail and change-out of that rail?

15 A. No sir, I have not, and this further
16 attaches to what Dr. Edwards said in exhibit T6-35,
17 and I would like to read to you gentlemen what Dr.
18 Edwards said there in the exhibit I cited which he
19 entered in the Transcontinental Divisions Case.

20 Q. You have a great respect for Dr. Edwards,
21 and you have stated that in a number of places?

22 A. In the Commerce study?

23 Q. Yes?

24 A. Yes, sir, and Dr. Edwards says,

25 "Tracks about to be abandoned naturally
26 have a level of direct track maintenance
27 expenses approximating the irreducible
28 amount necessary to provide a fair readiness
29 to service. In other words, the density of
30 the traffic is so low that its actual movement



1 over the rails would have no measurable
2 effect on the need for replacing rail,
3 ties, ballast, bridge structures, and
4 other expenditures for the direct accounts
5 above mentioned. The structure would rust
6 out, rot out or otherwise have to be
7 replaced by the action of the elements
8 before the wear and tear of traffic would
9 have its effect."

10 To that one must add that we have made
11 a special effort to determine whether there have been
12 any tests conducted by engineering laboratories or
13 by the Association of American Railroads research
14 department to find out how long rail will last. We
15 could not get an engineer to give us an estimate. If
16 we had a laboratory in which one could subject the
17 rail to the weather, it could well last for hundreds
18 and hundreds of years.

19 Q. But in minimum track maintenance expense,
20 in arriving at your \$742.52, you did not make any
21 allowance for change-out of rail or obsolescence?

22 A. Such an allowance has nothing to do
23 with minimal track maintenance.

24 Q. Dr. Bortz ~~accepted~~ this figure of \$742.52
25 as a minimum maintenance cost per mile of track and
26 deducted it from the dependent variable before he ran
27 his regression analysis?

28 A. Correct.

29 Q. And you would agree that the coefficients
30 in the regression 2020 are inter-related with this



1 minimum track maintenance figure of \$742.00?

2 A. I would certainly agree to that.

3 Q. By the way, I think Dr. Bortz told us this,
4 but you would know, you and he worked together in
5 arriving at and choosing the independent variables
6 for his regression?

7 A. Yes, that is correct.

8 Q. And another point, to clear this up:
9 you were in charge of this study on behalf of Manitoba
10 and Alberta?

11 A. I administered it.

12 Q. You were the architect?

13 A. That is a term that could be employed.

14 Q. And you employed Dr. Ullmer, who was the
15 third man ---

16 A. No, I didn't employ him. I brought his
17 name and achievements to the attention of my principals.

18 Q. When did you do that?

19 A. Is this pertinent?

20 Q. Yes?

21 A. Some time in the past summer.

22 Q. That is the summer of ...?

23 A. 1960; I think it was around May or June;
24 I am not quite certain. It may have been earlier than
25 that.

26 Q. Thank you. Commencing at page 7 and
27 going through to page 13, I think it is, Mr. Banks, you
28 deal with car day accounts?

29 A. Yes.

30 Q. And it is in volume 116 of the transcript,



1 page 19212 to page 19218: to develop costs associated
2 with car ownership the analyst must develop the car
3 miles of the total freight car fleet and for the study
4 traffic; do you agree?

5 A. The car miles, you said?

6 Q. Yes, car miles of the total freight car
7 fleet and for the study traffic.

8 A. The analyst attempts to do this, yes.

9 Q. And then he develops the car days for
10 the total freight car fleet and for the study traffic?

11 A. He attempts to do this also, yes sir.

12 Q. You have criticized the method and the
13 result that flowed from the Canadian Pacific car day
14 account?

15 A. The original method -- are you talking
16 about before exhibit 132, or after?

17 Q. I am talking about the cost study and
18 the car day account that is before this Commission.

19 A. Well, which one? You have used so many.

20 Q. Of exhibit 132.

21 A. Exhibit 132?

22 Q. Yes?

23 A. Oh well, we have certain criticisms of
24 that, but I should mention it was brought out clearly
25 at the cost conference that for many reasons Manitoba
26 and Alberta did not investigate exhibit 132 car days
27 as thoroughly as we should have liked to have done, and
28 we have set forth, starting with page 11, the
29 deficiencies that we think are still contained in the
30 post exhibit 132 car days.



1 Q. Car day accounts should be determined
2 for both the active car days and the idle car days
3 because both active and idle car days are attributable
4 to the movement of grain to export positions in
5 western Canada? We can agree on this, I think, surely?

6 A. In the method that you have used, yes.
7 There are different ways of doing this, and that is
8 what all the problem is about here. This is where the
9 difference of opinion arises between ourselves and
10 the railways in that there are several ways in which
11 almost anyone of these things can be done. The way
12 that you folks did it, you have described, and I will
13 agree this is what you did.

14 Q. But any movement of grain to export
15 positions in western Canada requires cars active in the
16 day account of this and it requires idle car days?

17 A. Sometimes it only requires calendar
18 car days which is a method -- you folks, yourselves,
19 switched your method and created a little confusion in
20 so doing.

21 Q. Well, let me see if we can, between
22 you and I, discuss it and make certain there is no
23 confusion.

24 A. I will be happy to cooperate, sir.

25 Q. Just look at page 8 of your memorandum,
26 and we will deal with what you say was the original
27 situation on Canadian Pacific -- that is, the car
28 day account in exhibit 64. You show the car day account
29 to be approximately 3.4 million; correct?

30 A. 3.3.



1 Q. 3.385910, but for the sake of not saying
2 all those figures, I say approximately 3.4 million.
3 You would not take that?

4 A. I will take it, of course.

5 Q. All right, approximately 3.4 million.
6 When you come down to your table at the bottom of page
7 8 you show under No. 1 grain car days, exhibit 64,
8 a 3700 car sample, 3.257123.

9 A. I think the difference between the
10 3.2 and the 3.4 we are talking about is in large part
11 accounted for the non-revenue freight adjustment. So,
12 the basic number is the same.

13 Q. Correct, that is what I was trying to
14 establish. In the figure of 3.4 million given at
15 the top of page 8, as shown in exhibit 64, and the
16 figure 5.3 million as given in revised exhibit 64 that
17 you refer to, you are not suggesting to this Commission
18 that they measure the same car day account, are you?
19 I suggest to you, to make it clear, that the first
20 figure is an active car day account and the second
21 figure is a figure giving active and idle car days;
22 do you agree?

23 A. I would agree that what you have just
24 said illustrates quite clearly the first complete
25 paragraph at the top of page 8, which reads, "This
26 major modification in a fundamental measure of output
27 illustrates the arbitrary statistical mechanics
28 necessarily involved in the derivation of car days..."

29 Q. It is exactly because you said that that
30 I asked you the question. I will put it to you again



1 and ask you if my understanding is correct, that the
2 figure of 3.4 million car account in exhibit 64 and
3 the figure 5.3 car account in a revised exhibit 64
4 do not measure the same car account / because the first,
5 the lower figure, is an active car day account and the
6 second figure is active and idle; do you agree?

7 A. Yes, I do.

8 Q. Now, you are saying at page 8, "Our
9 analyst determined that if the car day method used
10 for grain was applied to the system, it would more
11 than double system car days. If the system method
12 were to be applied to grain, it would reduce grain
13 car days by more than half. In either case the
14 result was the same: a discrepancy exceeding 100 per
15 cent in the number of car days assigned to grain".

16 I suggest to you that the computation upon
17 which that statement is based turns on item 4 in your
18 table, grain car days computed rail form A, 1.5 million,
19 approximately?

20 A. My answer is that this matter was
21 explored at the last conference and we agreed with
22 Canadian Pacific's revisions there that this number
23 was not, to put it in your language, "What it purported
24 to be." However, there was an understanding arrived
25 at that this matter would be further explored. It has
26 been further explored in part by Canadian Pacific
27 adjusting its figure to 2.3 million, or some such odd
28 figure. Unfortunately, however, Canadian Pacific
29 has also neglected to make an analogous adjustment in
30 the denominator of the car day fraction involving



1 system car days. This matter is currently in
2 process between ourselves and the C.P.R. by correspondence
3 to the Commission staff, Mr. Sinclair, and I think we
4 can get it worked out.



1
2 Q. What I am suggesting to you is that
3 at the cost conference you have agreed that that figure,
4 1.4 million should be increased to approximately 2.4?

5 A. That is correct; we agreed, and we also
6 suggested ---

7 MR. MAURO: Well --

8 THE WITNESS: Just a minute, Mr. Mauro.

9 MR. SINCLAIR: Would you let the witness
10 answer.

11 MR. MAURO: I only wanted to point out that
12 on page 2 of the memo Mr. Banks agreed that this figure
13 should be changed to 2.3 -- "discussion on the remaining
14 discrepancy has been continued by correspondence."

15 MR. SINCLAIR: Q. I am trying to work to
16 these figures, and I am going to suggest to you to take
17 these numbers, and this leaves approximately, between the
18 Canadian Pacific figure of 3.3 and your figure of 2.5
19 million -- both approximate -- about 900,000 car days --
20 that is the difference between the two figures; correct?

21 A. That is far too over-simplified a
22 solution, I fear. To answer your question briefly, the
23 answer is No.

24 Q. The difference between --

25 A. Well, the difference is meaningless if
26 you do not go further through the calculation which is
27 very complicated. Item 2, system car days, has to be
28 adjusted in a manner analogous to item 4. We have a
29 fraction, and the fraction is the ratio of grain car
30 days to system car days, and if you adjust the numerator



1
2 you also have to adjust the denominator if you are going
3 to compare like with like, which is the basic requirement
4 for a meaningful cost analysis.

5 Q. Let us do one thing at a time. I am
6 dealing with the difference between grain car days in
7 exhibit 64, which is shown as 3.3 million, and grain car
8 days as you have computed it and revised it to 2.5,
9 approximately, and I am asking you to agree to one thing,
10 that the difference is approximately 900,000? It is a
11 matter of arithmetic, surely?

12 A. The difference, sir, arithmetically is
13 as you have stated it. Philosophically, it is meaningless.

14 Q. Well, Mr. Banks, I find it difficult
15 enough to be interested in transportation and to practice
16 law without trying to be a philosopher, and I would like
17 to ask you, in view of the fact you indicate you are
18 approaching this philosophically, this practical question:
19 what weight in your car day account did you give for
20 differences in in-transit time between grain and other
21 traffic?

22 A. Are you referring here to the data
23 shown at the bottom of page 8?

24 Q. I am going to start working the data
25 over a little bit, and I am just asking you a very
26 simple question of fact.

27 What weight did you give in your car day
28 account for a difference in in-transit time of grain
29 and other traffic? The answer is none, is it not?

30 A. It is, yes.



1
2 Q. Is it your view from your investigation
3 of the grain handling on Canadian Pacific that there is
4 delay to grain moving from western Saskatchewan and
5 Alberta to Vancouver for export caused by congestion at
6 the Vancouver terminals, and also caused by Wheat Board
7 requirements for delivery of specific grades to meet
8 shipping commitments?

9 A. This is, in general terms, my view,
10 and I do agree we should have adjusted for it in the
11 data shown on page 8. However, had we made such an
12 adjustment we would have also had to make a similar
13 adjustment on a system-wide basis for many kinds of
14 commodities in order to bring this data into a comparable
15 posture, and we are in the process of doing that now with
16 the Commission's staff observing the procedure, and I am
17 sure it will make a judgment as to whether we have done
18 the matter, in the last analysis, in a proper way.

19
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21 --- Adjournment ---
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John P. P. McTavish

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

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I N D E X

Page No.

BANKS, R.L.

Cross-examination
By Mr. Sinclair (resumed) 22403

By The Commission
Mr. Gobeil 22471

CLOSING REMARKS

Mr. Sinclair 22473
22484
Mr. Cooper 22483
22492
Mr. McDonald 22485
Mr. Frawley 22486
Mr. Brazier 22488
Mr. Mauro 22490
The Chairman 22493

NO EXHIBITS IN THIS VOLUME



ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Offices,
Ottawa, Ontario, on the 17th
day of January, 1961.

---O---

COMMISSION

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---O---



Ottawa, Ontario,
Tuesday,
January 17th, 1961.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

MR. SINCLAIR, Q: Mr. Banks, I intend now to discuss with you for a few moments the question of your development of what you term line haul common costs, and depending how well we get along we will decide whether we will have further discussion on one or two other matters I have opened with you. We have been referring to what you call line haul common costs as train mile train weights?

A. Yes, I think we understand, sir, the area of cost to which you propose to address your questions.

Q. Yes. Now, your memorandum deals with this at pages 19 through 22, and is found in the transcript volume 116 pages 19224 through 19227.

Mr. Banks, in arriving at the train miles caused by the movement of grain to export positions in western Canada, the cost analyst, you will agree, must consider both the movement of trains from Manitoba, Saskatchewan eastbound to Fort William, and to return empties from Fort William, and the movement of grain from the most westerly part of Saskatchewan and Alberta westbound to Vancouver, and to return empties from Vancouver on Canadian Pacific?

A. Yes, sir, he must and we did.

Q. Now, in railway operation, Mr. Banks, we



1 can agree that train operations consist of the movement
2 of what is designated as symbol or manifest freight
3 and extra freight trains?

4 A. Yes, sir.

5 Q. Now, there is often, we can agree,
6 misconception by people in looking at railway operations
7 that extra trains are heavy trains?

8 A. There would be no such misconception among
9 persons experienced in railroad operations, only among
10 laymen with a superficial knowledge of the subject, in
11 my opinion.

12 Q. Well, when you are looking at extra
13 trains you must take care, I suggest, not to overlook
14 what is known as light running caboose hops and matters
15 of that kind, because it is a necessary part of railway
16 operations to balance power and crew?

17 A. If I recollect correctly, Mr. Sinclair,
18 the Canadian Pacific explicitly excluded light running
19 from its development of costs, and we were grateful for
20 this little gift, and we also excluded it from our
21 costing.

22 Q. It is a fact of cost?

23 A. It is an element of cost.

24 Q. Now, in regard to specific commodities,
25 when you are looking at them and their cost you will
26 agree in respect to train operations that you must
27 consider the service demands of the commodity being
28 moved?

29 A. I believe the railway ~~attempts to~~ do
30 this, yes, sir.



1 Q. Well, for instance, in grain -- and I
2 think that we can agree on this -- while one may
3 consider grain overall, it is made up of, for instance,
4 different grades, and there are sales based on grades:
5 No. 2 Northern, Toughs 5 and 6, No. 4 Northern?

6 A. We did not have the opportunity
7 extensively to study the marketing process of grain,
8 but I have gathered that what has been here
9 generically referred to as Crowsnest grain does in fact
10 consist of several different grades of grain and grain
11 products.

12 Q. Yes. And grain is a generic term for
13 what we call cereals, and includes oats and barley?

14 A. That is my understanding, too.

15 Q. And it is a normal part of the marketing
16 pattern of cereals that you can have in position in
17 the terminal elevators substantial quantities of one
18 grade and have the demand shift and require a grade that
19 is not in supply in position in the terminal elevator?

20 A. To the extent that we were informed or
21 advised of this matter, we were also given to understand
22 by those familiar with the grain movement pattern that
23 these shifts to which you refer have a small impact on
24 the total transportation service which is required for
25 the movement of grain to export positions.

26 Q. Well, I suggest to you, Mr. Banks, that
27 it is a matter, a problem with the terminal elevator
28 operators and with the wheat board to have in position
29 the actual grades at all times when the ships come in
30 and the parcels that are sold are available for loading



1 on the ships?

2 A. This is my understanding, sir, but I
3 have also understood that it is not as complex a
4 distribution scheme as would be required for many types
5 of consumers' goods which move in different sizes, shapes,
6 colours, and varieties.

7 Q. Well, whether it is a matter of complexity to
8 a degree that it is as great as some other specific
9 commodities, in any event we can agree on this, that
10 there is a market demand requirement that has to be
11 met?

12 A. Yes, we can agree on that.

13 Q. Now, we can agree on this, I take it,
14 that it is basic to railway operations that there is
15 a rolling resistance to each unit on a train?

16 A. Yes, we can agree on that.

17

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2 Q. And because of this rolling resistance
3 train weights for operating purposes are based on what
4 is known as equivalent gross tons.

5 A. Yes.

6 Q. And this is an adjustment factor over
7 the actual gross tons.

8 A. No sir, that is where Canadian Pacific
9 and R.L. Banks part company. We have a letter here from
10 Mr. Stenason which was sent to us in the very recent
11 past and it is an outgrowth of the cost conference. Mr.
12 Stenason makes it quite clear there Canadian Pacific
13 considers that equivalent gross tons always exceed
14 actual gross tons. However, in our judgment this is only
15 true in certain situations and we think that Canadian
16 Pacific does recognize this at an early stage in the
17 development of their costs when they use the adjustment
18 factors to be applied to train miles over prairie and
19 Pacific loaded trains which made a clear distinction
20 between the rolling resistance of loaded and empty trains.

21 Q. Of course, with all due respect to you,
22 Mr. Banks, I do not think anybody has suggested to you,
23 at least I have not, that the rolling resistance on a
24 loaded car is the same as rolling resistance on an empty
25 car. If you are suggesting that there is a difference
26 I do not think that there would be anybody that knows
27 the situation who would disagree with you but there is
28 a rolling resistance whether a train is loaded or empty
29 per unit.

30 A. Yes, but that rolling resistance does



1
2 not, as you have suggested, always and necessarily mean
3 that the equivalent gross tons is "over" actual gross
4 tons; sometimes it may be under actual gross tons.

5 Q. Have you ever looked at the dynamometer
6 test in Canadian Pacific and checked them out as against
7 actual gross tons.

8 A. No, sir.

9 Q. Have you ever seen dynamometer tests
10 applied to train weights.

11 A. Yes sir, but not on the C.P.

12 Q. Have you checked out and can you give
13 me an example of Canadian Pacific where E.G.T.'s would be
14 less than A.G.T.'s on an actual train operation?

15 A. Well, I have a slew of them here that
16 I will give you one example.

17 MR. MAURO: How many?

18 MR. SINCLAIR: It is a slang expression.
19 We will see if there are a lot or not.

20 MR. MAURO: Perhaps he could put some of
21 them on the record and it would be helpful.

22 MR. FRAWLEY: Mr. Sinclair only asked for
23 one but go ahead and make it two.

24 THE WITNESS: This is train No. R312 --
25 incidentally, the numbers on the side were drawn from
26 Canadian Pacific basic train conductors report, I believe
27 form T125 and the data were drawn off by us on a visit to
28 Montreal sometime during the course of this activity.

29 MR. SINCLAIR: Q. Before you do this,
30 please do not indicate on the public record here the



1
2 subdivision and direction because train weights by
3 subdivision by direction as far as we are concerned are
4 confidential and were given to you on that basis.

5 A. Yes, sir.

6 Q. We will call it subdivision A.

7 A. Subdivision A of the report, information
8 which Canadian Pacific calls form T125 for a particular
9 train which ran in this illustrative case --

10 Q. Call it R3 because that is not the
11 number.

12 A. All right, the train had diesel units
13 numbered 4049 and 4417; it had a tare weight, a trailing
14 tare weight of 2011 tons, contents 4537 tons, total
15 weight 6548 tons. In our submission the equivalent
16 gross tons should be computed at 6471.

17 Q. Would you mind telling me what factor
18 you applied to the loads and what factors you applied to
19 the empties.

20 A. The same factors that C.P.R. set forth
21 in work sheet -- the factor we applied -- I cannot tell
22 you immediately whether this was 30% or 10% but I think
23 it was 30% subdivision.

24 Q. I am not asking for train weights, I
25 am asking for the adjustment between E.G.T. and A.G.T.

26 A. Well, the formula we used is the same
27 as Canadian Pacific used, E.G.T. equals A.G.T. times a
28 factor times another factor which consists of the tare
29 weight minus half the contents; the form we used was
30 the same. I submit, Mr. Sinclair, that the formula we



1
2 used is the same as the formula used by Canadian Pacific
3 and that is also, I believe, the one that Canadian
4 National used.

5 Q. Is this expression of tare minus
6 contents over two (times --

7 A. The expression is the one I have just read
8 into the record. It is the same in application, it is the
9 same formula.

10 Q. Can I state it as you have it here?

11 MR. MAURO: He has already stated it and
12 it is on the record.

13 MR. SINCLAIR: At the top of the column
14 you have stated this (tare minus contents over two)
15 percentage plus actual. Mr. Banks, we agree that if
16 you are making, developing a train weight of A.G.T.'s
17 and you are taking another train weight on E.G.T.'s you
18 have a mix that prevents a comparison.

19 A. In theory this is true but in our
20 practice this problem does not arise.

21 Q. In comparing train weights which you
22 have developed with those developed by Canadian Pacific
23 in its cost study were those on the same basis, E.G.T.
24 or A.G.T. or was there a mixture?

25 A. I am sorry, I do not understand the
26 question.

27 Q. You developed certain comparison and
28 developed from that what you term to be savings that
29 should have been ascribed to grain for train operations
30 and these are reflected in your cost studies?



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A. Yes, sir.

Q. And I am asking you in making the comparison of train weights ~~as~~ developed by Canadian Pacific and as you developed them were you comparing in the figures you had like with like in that the train trends were developed on the same basis of tonnage rate?

A. We believe we were so doing, yes.



1 Q. It is important that you do have them on
2 the same basis?

3 A. Quite right.

4 Q. Mr. Banks, it is a misconception that
5 many fall into, even those who have had some
6 experience in analysing railway statistics, that, for
7 instance, doubling the size of trains would have a
8 tremendous effect in reducing costs? In fact, in
9 your Commerce Study you stated it this way -- and I
10 am quoting from page 2-70:

11 "Doubling the size of all trains
12 would decrease costs by approximately
13 five per cent. Since such a policy would
14 tend to increase per diem rentals, disrupt
15 yard operations and reduce the quality of
16 service offered it might very well induce
17 costs which outweigh such reductions."

18 You have not changed your mind about that?

19 A. No, I haven't at all.

20 Q. In the presentation of Manitoba-Alberta
21 they have deveoped constructive trains based on maximum
22 tonnages; correct?

23 A. Correct.

24 Q. By subdivision, by direction, on the, I
25 think, Moose Jaw to Fort William and Ayliffe to Vancouver?

26 A. Yes.

27 Q. Did you take into account and adjust
28 the cost that you have presented to this Commission for
29 the additional cost in yarding, additional car days,
30 additional locomotives, and other elements that would



1 increase costs by operating these tonnage trains that
2 you constructed and holding traffic to meet the
3 requirements of the tonnage?

4 A. Mr. Sinclair, let me begin by saying that
5 I very likely misconstrued one of your three or four
6 immediately preceding questions and indicated we used
7 maximum train weights when I assented to this suggestion
8 on your part. I did so because it facilitated the
9 discussion, but in fact the maximum that we employed
10 was adjusted to reflect the reduction from the maximum
11 observed train weights, observed by us from and on
12 Canadian Pacific's basic data, to reflect what might
13 be a realistic year-round experience on the basis
14 of a sample of data which the C.P.R. gave us. Such
15 sample in turn enabled us to ascertain in an
16 approximate way the degree to which Canadian Pacific
17 was unable to realize the heaviest train weights due
18 to weather conditions and other operating factors.
19 On the basis of this sample, the maximum to which I
20 agreed was actually adjusted so as to reflect in the
21 best possible manner available to us Canadian Pacific's
22 own experience in meeting the operating situation as
23 it found it from day to day.

24 However, to answer your question now directly,
25 Mr. Sinclair, I think we are talking about two different
26 things.

27 Q. Just a moment, before you go back to
28 that, seeing you have gone back to another question.
29 I suggest to you that the explanation you have just
30 given to the Commission does not adequately say what



1 you did at all, because it is not what you did. What
2 you did was, you took the maximum tonnage rating from
3 the rating books of Canadian Pacific and looked at
4 them and developed a tonnage from that, and then
5 from a half of one per cent sample developed a maximum
6 observed, and took whichever was the less by subdivision
7 in the loaded direction; do you agree?

8 A. No sir, not quite.

9 MR. MAURO: Perhaps you can tell us, Mr.
10 Banks.

11 MR. SINCLAIR: Just a moment, Mr. Mauro. I
12 think this witness and I are making some progress in
13 trying to clean up some of the deficiencies that are in
14 the presentation as it is written, and we are trying
15 to explain them and explore them.

16 MR. FRAWLEY: You use the word "deficiency" as
17 if we agreed to that. We do not agree to that.

18 MR. SINCLAIR: You have agreed to some already.
19 I don't think there is any doubt about that.

20 MR. MAURO: There are some in yours, too.

21 MR. SINCLAIR: In yours, just one million car
22 days. However, we can argue that at another time.

23 Q. I had explained to you, Mr. Banks, as to
24 how I understood you developed your train weights, by
25 taking maximum tonnage rates on a half of one per cent
26 sample in the loaded direction, the observed tonnage,
27 and you took whichever was the less, the maximum or
28 the observed over the train runs in the loaded direction
29 by subdivision and by direction, and I ask you if that
30 is not correct?



1 A. Without an opportunity to see what you
2 have just said in writing and to study it, I cannot
3 precisely answer yes or no. What we did do was,
4 in fact, described at the bottom of page 21 and the
5 top of page 22 of our memorandum No. 2.

6 Q. I have got a work paper which you gave
7 us, Mr. Banks, and maybe we could turn our minds to
8 that and see if we don't agree.

9 A. Which number is it?

10 Q. There is no number on this one. It is
11 one of the earlier work papers and it does not bear a
12 number. "Banks, train weight calculations" is on the
13 back.

14 A. That was written by one of your people.

15 MR. FRAWLEY: Maybe this is why the first
16 Turgeon Commission didn't want to go into the Crowsnest
17 Pass costs at all.

18 MR. SINCLAIR: This is the reason why it is
19 important that counsel carefully listen to the questions,
20 and my friend maybe is very happy the Turgeon Commission
21 didn't go into that, because some people have been
22 relieved of money that the railways should have had
23 for a good period of time, and we are indeed grateful
24 to the order-in-council that set up this Commission
25 making it clear that this issue is to be decided.

26 MR. FRAWLEY: Oh, clear?!

27

28

29

30



1 THE WITNESS: In any event, Mr. Sinclair,
2 the paper that you have shown me is definitely not
3 the one on which our published data are based, because
4 we had quite a bit of work to do in developing this
5 particular item. We in fact changed what we did
6 several times, depending upon the data that we got
7 from the Canadian Pacific which, as you recall, in the
8 beginning was somewhat less than was later on made
9 available to us. And, consequently, we had to change
10 what we did to reflect the availability of data.

11 MR. SINCLAIR, Q: I suggest to you, and I
12 am instructed, that this work paper I have now shown to
13 you was given to Canadian Pacific after the filing of
14 your precis, being memorandum No. 2.

15 Mr. Banks, maybe, then, I can ask you these
16 questions and see if you will agree with them without
17 looking at the actual numbers, and see if we can't get
18 to the same position without looking at the actual
19 numbers, and then we can possibly at the break we will
20 be having take a further look, if it necessary to
21 identify this work paper.

22 Mr. Banks, in determining whether grain moves
23 on Canadian Pacific on symbol trains or on extras
24 and in what weights of trains it moves, it involves
25 a practical decision of meeting the demands of grain
26 service and taking into account the cost characteristics
27 of moving grain in all their aspects. Do you agree?

28 A. I believe so, in a general sense, yes.

29 Q. Now, I have discussed with you the way
30 your constructive trains were developed to arrive at



1 train weights --

2 I will put it to you again.

3 A. Sir, will you excuse me, please. I never
4 did have an opportunity to answer the question which you
5 directed at me related to the next to the last paragraph
6 on page 2-70 of my commerce cost study. You will
7 recollect that you read into the record a quotation
8 from my study.

9 Q. I asked you if you had changed your mind
10 since then, and you said no.

11 A. That is right, but I did not have an
12 opportunity to finish that answer, Mr. Sinclair. May
13 I finish it now, please?

14 Q. Certainly, if you had not finished your
15 answer, by all means. I thought we had finished that
16 up. But, go ahead.

17 A. Well, in brief what Mr. Sinclair has
18 done is to read one paragraph out of context which, when
19 viewed by itself and applied to the present situation,
20 might seem to contradict what I am saying now.

21 In my view, this is not the case at all. To
22 begin with, one of the omitted paragraphs said, in part:

23 "Whereas some effort has been made
24 to improve car utilization, it appears
25 that the railroads have devoted relatively
26 more attention to increase train utilization
27 through increases in train size".

28 Now, gentlemen, I submit to you we do not
29 increase train size in the development of our train
30 miles one iota above that which Canadian Pacific



1 experienced in many of its actual train operations.
2 In fact, we had reason to believe that there were
3 trains operated in excess of the weights that we
4 actually used.

5 The essential point here is that what Mr.
6 Sinclair has quoted is dealing with the length of
7 train. Size and length are substantially equivalent
8 terms in the context in which my commerce study dealt
9 with them. We would not tamper with the actual
10 experience so far as that experience was made
11 available to us. What the important and essential
12 feature of the development of our costs was that we
13 believed Canadian Pacific was using too low a weight,
14 not too few cars. And using a higher weight train
15 would not increase per diem rentals, disrupt yard
16 operations, or reduce the quality of service offered.
17 Increasing the length might very well do so.

18 Q. Are you suggesting that in your
19 constructive trains that you were not changing the
20 actual operating conditions on yardings, speed over
21 the road, availability of traffic, and meeting service
22 demands?

23 A. Let us take one of these elements at
24 a time, please. Let us talk about yarding. I suggest
25 to you that if grain was operated actually and in toto
26 in solid grain trains, the amount of yarding switching
27 that Canadian Pacific has attributed to grain and the
28 amount of yarding switching that we have estimated for
29 grain would both be a substantial over-statement. We
30 leaned over backwards in the development of our



1 constructive trains to be conservative. We made no
2 adjustment, no downward adjustment in the amount of
3 our yard switching account to account for the fact
4 that all the switching that now takes place for the
5 convenience of other traffic would be eliminated,
6 or if not all eliminated at least a substantial
7 reduction made in it. We did not take this into
8 account.

9 Q. Mr. Banks, I suggest to you that you do
10 not know what you are talking about when you say you
11 have not effected yardings on your constructive trains
12 on Canadian Pacific, and I suggest to you further that
13 these remarks that you have just passed having to do
14 with intermediate switching I will discuss with you
15 when I come to that subject. But, in regard to this,
16 now, the only question I want to put to you and ask
17 the Commission to consider your answer is this: did
18 you take into account any factor for additional yardings;
19 additional switching; additional car days; additional
20 locomotive days; additional service demands arising
21 from holding tonnage on grain to meet your constructive
22 train weights?

23 A. Did we take these things into account is
24 what seems to be my understanding of what has been
25 asked.

26 As far as yardings and switching is concerned,
27 Mr. Sinclair has asked about these as though they were
28 two separate items. In my understanding, they are
29 one and the same thing, and I have already answered him
30 by saying we could have taken them into account by



1 reducing the number of yarding switching miles if grain
2 were operated in solid grain trains. In accordance with
3 the model that we set up, the trains could have been
4 what in railroad terms is called main track; they could
5 have been operated in accordance with what some other
6 railway men call relay type of operation, where they
7 do not go into any classification yard, yard points
8 in initial assembly; and consequently a good deal of
9 this intermediate yard switching that Canadian Pacific
10 has built up into such a tremendous element and cost
11 component would have been eliminated. And when we are
12 asked did we take this into account, yes, we took it
13 into account, and we did not adjust for it, although
14 we would have been justified in so doing. Consequently,
15 our estimate in this particular respect is an over-
16 estimate. All of this bleeding of cars that has to
17 take place in order to cut the train into separate
18 components and to perform the intermediate yarding
19 could have been eliminated, and it is a very costly
20 item indeed.

21 So much for yarding and switching. As far
22 as car days are concerned, I submit that there would
23 be no substantial impact on car days. If anything,
24 very likely a reduction in total car days would result
25 from operations in a manner that we described. And,
26 in this, I would like to read to you gentlemen a
27 couple of sentences from the August 1st, 1960 issue
28 of Railway Age, from a letter signed by Mr. F.G. Fisher,
29 assistant superintendent, motive power and rolling
30 equipment, also Engineer/Tests of the Reading Company,



1 who was addressing himself to the old time versus
2 tonnage debate which has gone on in the railway
3 business now for at least two decades.

4 Q. Could you tell the Commission -- if
5 I may interrupt you, Mr. Banks -- if he is dealing
6 with the movement of grain to export positions in
7 western Canada?

8 A. No, sir. He is dealing with railway
9 operations.

10 Q. On the Reading?

11 A. He is not addressing himself to the
12 movement of Crow grain, but he is addressing himself
13 to factors general to the railway business, wherever
14 it is conducted.

15 THE CHAIRMAN: To a principle?

16 THE WITNESS: To a principle, yes, sir, and
17 what Mr. Fisher says in part is this:

18 "The total elapsed time shipper to
19 consignee for a 60 car train or a 120
20 car train does not differ much if at all.
21 The exceptions are hot shot symbol high
22 priority trains handling perishable
23 and other special loads on passenger
24 train schedules."

25 And I suggest if the total elapsed time is
26 the same, how can they be --

27 Q. Are you still quoting?

28 A. No, sir. I beg your pardon. The end
29 of the quote came after the words "passenger train
30 schedules".



1 And I suggest that if, as Mr. Fisher believes,
2 the total elapsed time shipper to consignee is the
3 same irrespective of train lengths, then there cannot
4 be any substantial difference in the number of car
5 days.

6 Q. The article, I think we can agree, just
7 after where you read it goes on:

8 "But general train consist is different
9 due to the following and other reasons..."

10 The article then lists a No. 1, 2, 3, 4
11 specific reasons, and one of these is questions about
12 mal-functioning, return of power, and in regard to yards
13 it says this:

14 "Great strides have been made in yard
15 operations but until we produce still
16 undeveloped improvements in yard design,
17 yard classification, yard handling, and
the necessary equipment to handle -- we
cannot make proper use of high-speed over-
the-road trains."

18 If you make these adjustments to yards to
19 handle trains of that nature, they involve investment
20 and that is a cost that should be charged?

21 A. In any event, Mr. Sinclair ---

22 Q. Would you agree or not?

23 A. No, I would not agree because what you
24 are doing is suggesting that we have suggested that
25 the pattern of the grain handling operation be changed,
26 and we have not done any such thing. We are talking
27 about the proper way in which grain should be costed,
28 not the proper way for the Canadian Pacific to run
29 its railway, which we would not presume to tell them.

30 Q. If you operated constructive trains, you



1 are departing from the actual operating pattern in your
2 cost; correct?

3 A. Well, nobody is operating, not in
4 my understanding, constructive trains. What we have done
5 is computed the cost of constructive trains.

6 Q. You have computed the cost on the basis
7 other than the actual operations is what I suggest to
8 you?

9 A. Absolutely, and we think that is the proper
10 way to do it because the actual operation is conducted
11 for the convenience of other traffic, and for the
12 railways' general convenience, not for the convenience
13 of grain.

14 Q. I suggest to you, Mr. Banks, that in
15 developing your comparison between your constructive
16 trains and the trains used in the Canadian Pacific
17 cost study that you have taken equated gross tons and
18 the Canadian Pacific's figures that you used were off
19 the form SB9, statistical form, and you have used the
20 actual gross tons in your comparison. Do you agree that
21 you used the SB9 figures for your comparison? Would
22 you agree that they are used on EGT?

23 A. Yes -- excuse me -- that the SB9 --
24 that the average weights shown thereon were the basis
25 for the Canadian Pacific's computation of train weights.
26 Is that what you are asking?

27 Q. No. I am asking that the figures you
28 have used, SB9, to take them from AGT to EGTs requires
29 an adjustment factor, and that in your comparison as
30 shown by this material that you have given us there is



1 no factor having been applied to the figures that you
2 have taken. Am I correct in that?

3 A. I believe that the adjustment was made
4 at some point in our computation. We made an
5 appropriate adjustment, as Canadian Pacific did, at
6 the end of a long and involved and complex computation.
7 Canadian Pacific adjusted for rolling resistance at
8 the very last step in a long and complicated worksheet.
9 They adjusted fuel and crew wages by applying there
10 the prairie and Pacific region train resistance factors
11 for a sample train that they showed us on the Carberry
12 subdivision. They computed all of the necessary
13 components of cost. They made no adjustment to account
14 for rolling resistance until the next to the last line
15 of the computation when they had already reached a
16 figure for fuel and crew wages. Then, they applied
17 a rolling resistance factor. They did not do it to
18 the train weight as it came off the SB9 form. They did
19 it to the fuel and crew wages already computed without
20 such an adjustment.

21
22
23
24 -
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26
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28 -
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30



1
2 Q. Mr. Banks, my question to you was
3 this: in making your comparison by subdivision in the
4 loaded direction and comparing Canadian Pacific train
5 weights with your constructive time weights did you
6 compare like with like?

7 THE CHAIRMAN: You are pointing to his
8 working papers.

9 MR. SINCLAIR: Q. Yes.

10 A. The comparison between the two columns
11 which you just referred to by movement of your pencil
12 is not the comparison we made for the development of our
13 constructive time.

14 Q. I suggest to you that you did develop
15 a ratio from the comparison of your constructive trains
16 on E.G.T.'s with figures taken from SB9 being Canadian
17 Pacific's first step and is a comparison of E.G.T. train
18 weights as constructed by you with the average gross ton
19 weight from the SB9 over the subdivision as used for the
20 first step in the Canadian Pacific study.

21 A. To answer your question, Mr. Sinclair:
22 it is our belief that the confusion over this issue arises
23 from the fact that the heavily loaded trains such as the
24 ones that we use as a point of departure for a computation
25 on cost would have had a lower equivalent gross tons than
26 the actual tonnage that were used. Consequently, we were
27 being conservative in making the comparison that we did
28 make.

29 Q. Now, will you answer my question? My
30 question is this: in making your comparison between your



1
2 constructive trains by subdivisions and comparing them
3 with the Canadian Pacific SB9 average weight of train
4 over the subdivision you are not comparing like with
5 like because your constructive trains are on E.G.T.'s
6 and these figures that you have developed off the SB9's
7 are on A.G.T.'s. You do not like to say "yes" to that,
8 is that the trouble?

9 A. I am trying to answer in a way which
10 would be meaningful to both you and the Commission and
11 yes and no answers which you prefer are often not helpful.

12 Q. I am suggesting this is a question of
13 fact.

14 A. We agree it is and if you will give me
15 a moment I will try to be as responsive as possible.

16 Q. Well, in developing your constructive
17 trains to look at train miles comparison I suggest to
18 you that what you did get from Canadian Pacific was the
19 through trains and then you doubled that. You took the
20 through trains numbers as given by Canadian Pacific and
21 then you doubled them.

22 A. I think that is right, yes. Our theory
23 which Canadian Pacific cannot find tenable was that the
24 movement in the loaded direction was the governing
25 movement for grain and that to keep this railroad
26 operating it would be necessary to have the locomotives,
27 the locomotive units return to the place they started
28 out from, to the yard they started out from and also to
29 have the freight cars do likewise. Consequently, the
30 number of train miles required would be determined by the



1
2 amount of tonnage to be used as relating to the Canadian
3 Pacific experience that heavy freight trains, when train
4 miles in the loaded direction were determined taking into
5 account the fact that these train miles were generated
6 by a given number of locomotives and freight cars, to get
7 these locomotives and freight cars back to the place where
8 they can begin the cycle again required simply doubling
9 the number of train miles.

10 Q. I suggest to you that by doubling the
11 train miles taken from the loaded direction that you
12 have assumed that the weight on your constructive trains
13 in the loaded direction are equivalent to the weight of
14 empty trains in the empty direction.

15 A. I could not agree with you less, sir.

16 Q. I suggest to you that you have in this
17 way effectively come to the conclusion by the logic that
18 you have tried to use these figures to support, that you
19 have then this way got a much heavier weight of train
20 than actually can exist in the empty direction and
21 thereby substantially reduced the cost associated with
22 train miles for the movement of grain. I ask you if you
23 agree?

24 A. I certainly could not agree with you
25 less. Would you care to have me explain why?

26 Q. I want to deal with this one step
27 further. I asked you why you doubled train weights in
28 the loaded direction and made no adjustment for the
29 well known fact that locomotives cannot pull their rated
30 tonnage in empties.

A. We do not have our constructive trains



1
2 anywhere near approaching an empty tonnage in the one
3 direction. Our constructive trains approached the
4 Canadian Pacific experience, I believe it was less than
5 the Canadian Pacific experience in certain tonnage in
6 the loaded direction. In the empty direction even though
7 your rolling resistance may be higher there is no question
8 of the capability of a locomotive to haul the same
9 number of cars empty as it hauls loaded. I think that
10 is a matter that passes the "K" test with flying colours.

11 Q. I am asking you about weights.

12 A. I am talking about weights; a loaded
13 train weighs more than an empty train, does it not?

14 Q. I am not here to answer your questions,
15 I am here to clarify things.

16 A. This is a basic assumption we made in
17 that if you do not think that proper then we are wrong.

18 Q. I am suggesting to you the basic
19 assumption you made was that the empty trains had the
20 same weight as the loaded trains and that is why you
21 doubled the loaded train direction.

22 A. Sir, with all due respect, the weight
23 of train has, in our formulation, no relationship to the
24 size which is a confusion that seems to have existed in
25 our discussion here. The weight of train was the
26 governing factor in the loaded direction and in the
27 empty direction the governing factor was the length of
28 train. We made and took this special care that our trains
29 in the empty direction did not exceed Canadian Pacific
30 published train lengths and siding lengths and we submit



1
2 that, therefore, our development is a reasonable one if
3 one accepts the hypothesis of constructive trains which,
4 of course, Canadian Pacific does not. From that point of
5 departure the constructive trains that we used could have
6 been handled by C.P. because they were less than the
7 C.P.'s own experience or published tonnage ratings in
8 the loaded direction. In the empty direction they were
9 less than the available siding locomotives which is the
10 governing factor in so far as empty trains are concerned.

11 Q. Now, Mr. Banks, in placing your
12 constructive trains developed in the loaded direction and
13 used in the empty direction you reduce not only train
14 miles but crew wages. In working on your constructive
15 trains what allowance did you make for low speed over
16 the road from your train weights that grain moved at
17 what additional crew wages did you allow for on account
18 of waiting, hold-over of crews awaiting tonnage.

19 A. To answer your question properly I
20 might refer to the experience of a man with a great deal
21 more accurate operating department and locomotive
22 knowledge than I possess, Mr. Fisher of the Reading
23 Company.

24 Q. Is he talking about the Reading
25 Railway again?

26 A. He is talking of railways in general
27 and I think it can answer your question adequately. He
28 says:

29 "Short trains again assuming corresponding
30 heavy end power, with only one or two



1
2 units of power could be seriously delayed
3 with diesel malfunctioning. But long
4 trains with three or four units or more
5 could take the troublesome units off the
6 line and limp home with full tonnage or
7 make a small stop-off and continue."

8 I submit that the overall difference
9 between short train run and long train run in the
10 situation you have asked me to respond to would not be
11 unfavourable to the long train.

12 Q. Mr. Banks, to get your constructive
13 train weights let me go to one section of the country;
14 say westbound out of Calgary, what number of units were
15 you working on?

16 A. The number of units which Mr. L.R. Smith,
17 who I understand has an executive position with the
18 railway, told us.

19 Q. He is Transportation and Operating
20 Specialist assigned to the President, that is the man
21 you are speaking of?

22 A. Yes. He told us that trains to operate
23 with on such divisions "probably at least ~~once~~ daily".
24 The number of units we actually used in our computations
25 were four from Calgary to Field; from Field to Revelstoke;
26 from Revelstoke to Kamloops; three from Kamloops to
27 North Bend and three from North Bend to Coquitlam.

28 Q. I suggest that in the light of that,
29 what applicability has the quotation you have just made
30 from Mr. Fisher's article to the operation of grain?



1
2 A. Well, because Mr. Fisher's quotation
3 is dealing with the long and short train problem, not
4 with the question of how many diesel units are required.
5 Obviously, the Reading Company will require a lesser
6 number of diesel units than the Canadian Pacific mountain
7 subdivision. I do not think there is any doubt on that
8 point.

9 Q. Was not the point that Mr.
10 Fisher was making that by operating shorter trains you
11 could have malfunctioning of diesels whereas if you were
12 operating with longer trains of more than two units
13 consists, you could limit that to two or three?

14 A. Yes.

15 Q. Is that not what he is talking about?

16 A. Yes.

17 Q. I ask you what applicability that has
18 to the movement of grain on the Ayliffe Vancouver run,
19 we have been talking about when the Canadian Pacific is
20 operating with multi unit consists of diesels on their
21 trains.

22 A. My hesitation here does not rise from
23 any lack of belief that what we did was right but I think
24 we have gotten so confused I am not certain where we
25 stand or how properly to answer you. I would prefer,
26 and I want to be responsive, if you could rephrase the
27 question.

28 THE CHAIRMAN: We will break for five
29 minutes.

30 --- A short recess.



1
2 MR. SINCLAIR: Q. During the recess, Mr.
3 Banks, you and your assistants have been looking at the
4 work paper that I was referring to in my cross-examination;
5 have you identified it?

6 A. Yes, we have.

7 Q. It is your work paper?

8 A. It is.

9 Q. Now, taking this work paper -- you have
10 a copy before you?

11 A. I do.

12 Q. Will you take a look at your column
13 headed "Maximum tonnage rating adjusted" being column 4
14 of the work paper under subdivision --

15 A. First, second or third from the top of
16 the page.

17 Q. It does not matter. The difficulty here
18 is that the material contains confidential information
19 and that is why I cannot put it on the record. I do
20 suggest that a copy of this work paper be made available,
21 as a lot of confidential information has been made
22 available, to the Commission if my friend would undertake
23 to file it with the Commission?

24 MR. FRAWLEY: The Commission may have it
25 now, of course, there is no doubt about it.

26 THE CHAIRMAN: Dr. Hays will have this.

27 MR. SINCLAIR: Q. Looking at column 4?

28 A. Yes, sir.

29 Q. You have taken column 4 being "maximum
30 tonnage rating adjusted" which means, I take it, maximum



1
2 tonnage rating on an E.G.T. basis?

3 A. It means, yes, a maximum tonnage rating
4 shown in your tonnage rating manual.

5 Q. And then column 6 you have taken the
6 maximum tonnage recorded adjusted again being that you
7 have taken from this one-half of one percent example of
8 train operations on the subdivisions in question supplied
9 by the Canadian Pacific, the highest observed tonnage over
10 the subdivision in the loaded direction?

11 A. Correct.

12 Q. Adjusted to equated gross tons?

13 A. Adjusted from "A" to no rating.

14 Q. Adjusted in column 6, I suggest to
15 you, to an E.G.T. basis.

16 A. Well, the point about column 6 of this
17 work sheet is that in many instances we found that
18 Canadian Pacific's wheel reports showed the equivalent
19 of the actual tonnage to coincide, to be the same. There
20 was no place that I can recall the equivalent tonnage
21 was less than the actual.

22 Q. All I am asking you is, is column
23 6 under which you have noted by the word "adjusted", does
24 that mean it is adjusted to E.G.T.?

25 A. Yes.

26 Q. Now, in column 7, 1958, SB9 weight
27 you will agree that the figures there set up are on a
28 A.G.T. basis?

29 A. I will agree.

30 Q. And then you have developed the ratio



1
2 of that column 7, actual gross ton miles train weight
3 basis from SB9 to your maximum tonnage either on whichever
4 is the least, the maximum tonnage recorded, or the maximum
5 tonnage rating as derived from your column 4 and 6.

6 A. That is correct.

7 Q. And then when you move over into column
8 10 you have taken the sample that was given to you of
9 Canadian Pacific in the loaded direction and in columns
10 9 and 10 have doubled the figures given to you by
11 Canadian Pacific.

12 A. For a loaded direction movement, yes.

13 Q. The figures given to you were in the
14 loaded direction?

15 A. Yes.

16 Q. And you have doubled those?

17 A. Well, -- I beg your pardon, the crew
18 wages were not loaded direction, I misunderstood you.
19 The crew wages were actually divisional wage costs as
20 they had been computed by Canadian Pacific.

21 Q. And your doubling does not apply to
22 column 9 headed "Crew Wages"?

23 A. Yes, it applies there but the basis
24 from which the doubling was accomplished was the Canadian
25 Pacific computation we doubled in order to provide for
26 crew wages in both loaded and empty directions.

27 Q. And in doubling the figures in column
28 10 given to you by Canadian Pacific, my suggestion to
29 you is that this assumes that the weights of train in
30 the empty direction are the same as the weights of train



1
2 in the loaded direction.

3 A. Not in the least. Miles and weight
4 are different words and to me they mean different things.

5 Q. What you are saying is that from your
6 computation you have taken the constructive train saving
7 on crew wages and train miles based on your ratio with
8 your maximum to the SB9 and applying them to the crew
9 wages and ton miles you developed by doubling the figures
10 given to you by Canadian Pacific.



1 A. Well, I am certain that what we did
2 was described most succinctly by the word "doubled"
3 which means we charged the same crew wages in the
4 empty direction as in the loaded direction.

5 Q. And the same train miles in the empty
6 direction as in the loaded direction?

7 A. That is correct.

8 Q. On the basis of the train weights in the
9 loaded direction?

10 A. Yes.

11 Q. In other words, you are assuming, are you
12 not, that the balancing of weights empty and loaded
13 have been made?

14 A. I don't see that balancing of weights
15 has anything to do with it. In my understanding the
16 thing that controls is the balancing of the mileage
17 in both directions which the locomotives and freight
18 cars have to cover.

19 Q. That is the basis upon which you approached
20 it?

21 A. That is the key to the use of our
22 doubling technique, yes.

23 Q. In your computations as shown on this
24 work paper, where have you made an adjustment to bring
25 your comparisons of train weights in these various
26 columns on a like to like basis?

27 A. I don't think that with the system we
28 used such an adjustment was required. It was inherent
29 in the basic method.

30 Q. Pardon?



1 A. It was inherrent in the basic method.

2 Q. And that is the basis you rest your
3 computation upon?

4 A. Yes.

5 Q. Will you turn to page 24 of your memorandum ,
6 "Loss and Damage". I think we are agreed here that
7 while you have set out in your memorandum a comparison
8 of Canadian Pacific and Canadian National, and that this
9 was brought to your attention when the railways' cost
10 witnesses were on the stand, that you must have
11 overlooked that; but in any event, it has been explained
12 to you since, and I think you agree, that C.P.R. and
13 C.N.R. figures are not comparable because the Canadian
14 Pacific figures claims administration expense as well
15 as actual claims payments, and the C.N.R.'s do not
16 contain administration expenses?

17 A. This is true. The sole issue as to
18 loss and damage relates to the question of whether
19 it is proper to use one year or three years to determine
20 this cost.

21 Q. On Canadian Pacific in the handling of
22 freight claims I suggest to you that there is no
23 attempt made to record the cost of claims and the handling
24 of claims on a basis of keeping in one year the claims
25 and costs associated with the claims in that year?

26 A. Yes.

27 Q. Do you agree?

28 A. I don't know what the basis is.

29 Q. I suggest to you it is normal practice
30 in the handling of claims that they may arise in



1 December of 1957 but not be paid until, maybe, 1959?

2 A. This would seem feasible.

3 Q. And that the amount of work on any
4 given claim differs markedly; would you agree with this?

5 A. Very likely it is true. Whether it is
6 typical of grain or not I haven't the vaguest idea.

7 Q. Do you know what is the biggest claim
8 problem in grain?

9 A. Isn't it dampness or spoilage through
10 water?

11 Q. That is one, but I suggest to you the
12 real problem in grain claims comes from leakage?

13 A. That is the same thing -- you mean loss
14 of the actual loading through leakage in the car floor
15 or side?

16 Q. Yes, and the one I thought you were
17 dealing with is not-tight cars and water getting in?

18 A. Yes.

19 Q. Also there is the problem of dealing
20 with grain claims arising from mishaps on recovery,
21 and the disposition of recovery -- salvage?

22 A. Yes. Well, I don't pretend any knowledge
23 of the details of grain claim handling, sir.

24 Q. I suggest to you that because of these
25 factors that are swinging in claims, and as there is
26 no attempt whatsoever to hold them to one year, that
27 the reasonable basis is to approach an average over
28 years?

29 A. Our analyst determined that there was
30 a very discernable relationship between the claims



1 payments and the traffic volume in a given year.

2 Consequently, we believe that the closest approach to
3 determining the proper loss and damage cost to be
4 charged to grain in 1958 was to use the 1958 claim
5 payments.

6 Q. I suggest to you that if you got a
7 correlation between volume carried and payments made
8 out, it is absolute happenstance, because, as we have
9 agreed I think for a few minutes, there is no attempt
10 to have related the costs in administration of claims
11 in the years in which they occur?

12 A. This may be true and it may be happenstance,
13 but the relationship exists, and surely the C.P.R.,
14 which places such stress on statistics should not find
15 our modest attempts to do the same -- should not bring
16 them into question. We found such a relationship,
17 and we used 1958.

18 Q. I suggest to you that you must not take
19 one year as a base when you have the fluctuations in the
20 work and payments that I have been referring to; will
21 you not agree to that?

22 A. Well, the data that were given to us
23 when related to the traffic volume indicated otherwise.

24 Q. For one year?

25 A. No; for three years: 1956, 1957 and
26 1958.

27 Q. Are you suggesting the claim payments
28 in those years reflect a correlation between the
29 volume of grain handled -- a direct correlation?

30 A. Not a direct correlation. I said a



1 discernable relationship.

2 Q. You mean dollars and ton miles; is that
3 what you mean?

4 A. Between dollars and ton miles -- no.
5 Between ---

6 Q. Dollars and revenue?

7 A. I believe it is dollars and car loads.
8 I am looking for our worksheet and I will check it.

9 In order not to hold things up, we would be
10 very happy to supply this relationship -- a copy of the
11 worksheet which shows the discernable relationship to
12 which I have referred, to you and to the Commission
13 staff if you wish. It is, in any event, the basis
14 for our suggestion that 1958 rather than a three
15 year average is the proper use.

16 Q. Are you saying 1958 is a representative
17 year?

18 A. I am saying ---

19 Q. For claims?

20 A. I do not have the vaguest^{idea} on that point.
21 I am suggesting, however, that the problem given to
22 me was, "Make the best possible estimate you can of
23 the cost of moving grain to export positions in the
24 year 1958."

25 Q. It gives a lower figure than the
26 average? If you take 1958 it will give you a lower
27 figure than averaging the three years?

28 A. Yes.

29 Q. If it had given you a higher figure
30 would you still have taken it?



1 A. We would have to take it to be consistent.
2 You folks, as I recall, in exhibit 132 made similar
3 adjustments for what you described as consistency,
4 each of which had the effect of increasing the cost of
5 grain.

6 Q. Wasn't it as the result of the suggestion
7 made at the 1959 cost conference that the three year
8 average be used that we made the adjustment?

9 A. I am not understanding you.

10 MR. FRAWLEY: What 1959 cost conference?

11 MR. SINCLAIR: Well, Mr. Frawley, you may
12 have overlooked the fact there were numerous cost
13 conferences between the consultants of the grain trade
14 and the provinces and the railways' cost people in
15 1959.

16 MR. FRAWLEY: You mean the trips from
17 Washington to Montreal? I just want to identify it.
18 I only know of one cost conference -- the one set
19 up by the Commission staff. However, you are referring
20 to these many interviews Mr. Banks and these people
21 had in your research department?

22 MR. SINCLAIR: And some of which were attended
23 by the members of the Commission. They were conferences.

24 MR. FRAWLEY: It is just the use of the word
25 "conference".

26 MR. COOPER: I believe Mr. Sinclair is
27 referring to the conference at which minutes were taken.

28 MR. SINCLAIR: No, no.

29 THE CHAIRMAN: The meetings in Montreal.

30 MR. FRAWLEY: Yes, there were many of them --



1 too many, we thought, for certain obvious reasons.

2 MR. SINCLAIR, Q: At pages 25 to 28 of your
3 memorandum you are dealing with yard switching?

4 A. Yes, sir.

5 Q. It is volume 116, pages 19230 and 19233.
6 In dealing with the intermediate switching in your
7 presentation to the Commission what weight did you give
8 to the switching made necessary by congestion at the
9 terminals or of the need for holding back one grade
10 and advancing another grade of grain?

11 A. The congestion that you refer to, which
12 I will deal with separately from the other point,
13 refers to the backup of cars at yards because of the
14 inability of elevators to receive all cars available
15 for unloading. Is that what you are referring to?

16 Q. Yes, or to receive tuffs, or to receive
17 types of cereals, or to receive types of wheat -- Durham
18 versus No. 1 Northern, or whatever you want to take --
19 if we still grow any, Red Bob?

20 A. You asked what weight did we give?

21 Q. Yes?

22 A. Let me answer that by saying there were
23 several ways in which we gave weight to this situation.
24 One was, we looked for it on the T1 basic data forms
25 which were in effect -- a schedule which each yard
26 conductor submitted to show what he did with his time
27 during the course of the yard study. No reference
28 appeared to any storage or anything that could be
29 construed as storage. We further asked Mr. H.G. McGinn,
30 your yard study expert, whether there was any storage



1 during the course of the year at Kenora, which was the
2 yard we most intensively surveyed, and he said, "There
3 is very little".

4 Q. Did you follow that through by looking
5 at Ignace and other yards, or did you, as you say,
6 deal with Kenora?

7 A. We examined three ---

8 Q. I mean to McGinn -- are you restricting
9 your answer?

10 A. I did not personally talk to McGinn on
11 this subject, and if you will wait a moment I will find
12 out.

13 I am informed that Mr. McGinn did not think
14 that there was any -- informed us that he did not
15 believe there was any appreciable amount of storage
16 at any of the points you have mentioned.

17 Q. At any of the points on the main line
18 of Canadian Pacific arising from congestion in the
19 elevators at the terminals?

20 A. That is what he gave us to understand.
21 There was some which occurred sporadically.

22 Q. Have you got the language?

23 A. No sir, he didn't say it in writing.
24 This is a matter of ---

25 Q. Your understanding of what he meant?

26 A. What has been told me by the person who
27 conversed with him on this subject.

28 Q. I see.

29 Q. Further, if there was in fact storage
30 we believed that C.P.R. should have adjusted its figures



1 at the yards where storage did occur to wash out that
2 waiting before applying such numbers to the yards where
3 it did not occur. Any such adjustment ---

4 Q. Which yards?

5 MR. FRAWLEY: Let him finish. "Any such
6 adjustment ---

7 MR. SINCLAIR, Q: Which yards would that be,
8 in your opinion, where there was no storage of grain?

9 A. I have no knowledge of this. I have
10 just told you that, sir. In any event, we thought
11 that if there was any substantial amount of storage
12 at Kenora at the time that the C.P.R. made its yard
13 study, and if there was no substantial amount of
14 storage at Kenora considering the year as a whole, then
15 C.P.R. picked a somewhat less than representative time
16 to make a yard study. We think they should have picked
17 another time if storage was a matter of any consequence
18 at the sample yards at the time the study was undertaken,
19 and assuming that storage was not a regular function of
20 such yard.

21

22

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1
2 Q. Well, the sample of Canadian Pacific
3 and their representative yards that they took in making
4 their switching studies is already in evidence, and I
5 will not go into that at this time.

6 In your intermediate switching computations,
7 Mr. Banks, what weight did you give for movement into
8 an intermediate point by a local train and transfer over
9 to a through train?

10 A. What we did in this connection was
11 start with the basic assumption, which was confirmed by
12 the previously referred to Mr. McGinn, that at the
13 intermediate yards --

14 Q. I'm sorry. Are you quoting Mr. McGinn?

15 A. No, not directly.

16 Q. This is again your understanding arising
17 from some conversation that you had with Mr. McGinn?

18 A. That Mr. Harter Williams had with Mr.
19 McGinn.

20 Q. But you have no confirmation of this
21 in writing of any kind -- a letter that I could look at?

22 A. No, we were forced to rely -- I will
23 amend that statement. We did rely on the good faith of
24 Canadian Pacific personnel. When they made a statement
25 to us, we accepted it at its face value.

26 Q. Mr. Banks, I do not know why you have
27 to say things the way you do.

28 I suggest to you that it is quite easy for
29 you to have misinterpreted the information that you got
30 and there would be no question of lack of faith one way



1
2 or the other, and I was not suggesting that you lacked
3 faith. But it is quite easy to misunderstand and to
4 apply generally where an answer is given specifically,
5 because I suggest to you, Mr. Banks, we are fortunate
6 on this Commission in having people who are very
7 knowledgable of the handling of grain and in the terminal
8 operations particularly at Fort William, and in the
9 handling of trains.

10 A. Sir, I agree completely with everything
11 you have just said. My position is we asked the people,
12 the experts in charge of the various phases of the C.P.R.
13 study the questions that to us seemed significant. We
14 asked this particular question -- one of our people did --
15 of Mr. McGinn. We got the answer from him. We did not
16 believe it was necessary to ask him to confirm in writing
17 everything that he said to us during the course of our
18 stay in Montreal. If this is unreasonable, or if we were
19 weak in placing reliance on such oral answers, there is
20 nothing we can do to correct it at this time.

21 Q. I suggest to you that you can well have
22 misinterpreted the information you received, because you
23 might have put the question in a broad aspect and may have
24 got a direct answer to a direct question.

25 A. Well, sir, may I attempt to tell you
26 what we did. However we may have arrived at a point
27 of departure I think has already been thoroughly explored
28 here. What we actually did here was to take the position
29 that at intermediate yards 94 or 95 out of every 100 grain
30 cars passing through a yard have switching service



1
2 performed for them, and for only two things: changing
3 the vans and cutting out the cripples.

4 Q. And this is based on the car alone?

5 MR. MAURO: Have you finished your answer,
6 Mr. Banks?

7 THE WITNESS: No. The numbers that I am
8 using are based on the Kenora yard for illustrative
9 purposes, yes, but the principle applies elsewhere, as
10 Canadian Pacific itself recognised when it used the yard
11 switching minutes at Kenora in a somewhat less than
12 completely precise way, applied this to a group of ten
13 yards as far west as Kamloops, I think. Yes, that is
14 right. The switching minutes which C.P.R. developed from
15 a yard study at Kenora were an influential factor in
16 developing the number of switching minutes they attributed
17 to yards, to ten other yards, of which the western most
18 place was Kamloops.

19 Q. Now, Mr. Banks --

20 A. May I finish my answer, please?

21 MR. FRAWLEY: He must be allowed to finish
22 his answer, Mr. Sinclair.

23 THE WITNESS: And because this was the
24 method that C.P.R. used -- and I am not suggesting what
25 method might be preferable -- but it was the method they
26 used, and all their data was based on such a method. We
27 necessarily had to resort to the same basic information.
28 So therefore what I say, which is based upon an intensive
29 scrutiny of the Kenora yard study, has an influence
30 throughout all the yard switching portion of this study.



1
2 We assumed, as I say, that 94 or 95 out
3 of every grain car going through these yards had nothing
4 done to the trains, except to change the caboose or the
5 van and to cut out the bad order cars for switching to
6 a rip track. It follows from this that the local work
7 done for local train cars switching in and out of such
8 trains amounts to an insignificant fraction -- maybe
9 four or five cars out of every 100 grain cars are local
10 cars.

11 Q. That is 4 or 5%?

12 A. 4 or 5 out of every 100, I believe,
13 would be 4 or 5%.

14 Our view is that this would not change the
15 significant result. But I am not quite finished yet,
16 because one important and subtle distinction that could
17 be overlooked is that the amount of local work done at
18 a yard like Kenora for all local traffic is a larger
19 amount of the local work done by the switching engines
20 at that point than the local work done for grain cars.

21 Let me start again on this last point to
22 make sure that I have stated quite clearly what is
23 significant. At Kenora, 15% of all the cars

24 passing through the yard in the year 1958
25 were local cars. By definition, a local car is one
26 that is cut in or out of the through train because it
27 has to go over to some local industry or to a way train for
28 further movements. 15% of all the cars at Kenora were
29 such local trains. But, if we disregard the whole
30 railway and look just at the flow of Crow grain freight



(Sinclair)

1
2 cars, only 6% of the Crow grain freight cars flowing
3 through Kenora were local cars. So that one can conclude
4 from all this that the amount of local switching engine
5 work done at a point like Kenora is greater on behalf of
6 other traffic than it is on behalf of Crow grain.

7 Q. Are you suggesting that that was not
8 properly measured in the Canadian Pacific study -- the
9 difference between local switching, account grain, and
10 local switching, other traffic?

11 A. I believe that there has been a great
12 deal of stress upon the importance of local switching,
13 such as the transfer of grain cars from way freights
14 to through freights. What I am therefore addressing
15 myself to is the question of just how important this
16 type of work is, and what I am suggesting to the
17 Commission is that it is a more important type of work
18 for other traffic than it is for Crow grain. For Crow
19 grain, it is not very important at the yards that we
20 were able to study.

21 Q. Well, the yards you were able to
22 study and which you said you based your studies on with
23 respect to flat switching, and matters of that kind, is
24 Kenora?

25 A. Sir, Kenora was given to us as
26 representative. That is why we were given it.

27 Q. Who said it was representative?

28 A. Canadian Pacific said so. That is why
29 you picked it and applied its average switching minutes
30 to ten other yards all across the continent.



1
2 Q. I suggest to you that what Canadian
3 Pacific did was take a group of yards, of which Kenora
4 was one?

5 A. That is right.

6 Q. But you did not do that; did you?

7 A. I do not think that is quite --

8 Q. Did you?

9 A. -- an accurate statement, sir.

10 Q. Did you do it?

11 A. Did we do what?

12 Q. Take an average of three yards and
13 apply them like the Canadian Pacific did?

14 A. Yes, we did. Unfortunately. We
15 certainly would have preferred to take it out.

16 Q. You did it in the studies you presented
17 to this Commission?

18 A. Yes, sir.

19 Q. I suggest you took two yards?

20 A. If we did that, it is news to me. Our
21 instructions were we would take all three of them.

22 Q. What were the three that you took?

23 A. Kenora was one.

24 Just a moment, and I will tell you. I will
25 have to dig out C.P.R.'s own yard study description here
26 to tell you what the other yards were, because we used
27 the same yards that you folks did.

28 Q. In your study, you used the same basis
29 of the three yards that Canadian Pacific did and applied
30 them in the way that Canadian Pacific did? Are you sure



1
2 of this?

3 A. Sir, you are over-simplifying a very
4 complex proposition.

5 Q. Page 30 of the memorandum you filed,
6 page 19235 of the transcript --

7 MR. FRAWLEY: Just take a minute of time and
8 give him the three.

9 COMMISSIONER BALCH: What is that reference
10 on page 27 to Broadview, Kamloops, North Bend, Revelstoke,
11 Field and Ignace?

12 MR. SINCLAIR: This is what arose out of
13 this question. I may as well make my position clear now.
14 What I think was done by these people was to make a
15 tonnage factor adjustment over and above the Kenora
16 adjustment based on Revelstoke. And at page 27 they say
17 that they have made a tonnage adjustment at the yards shown,
18 namely, Broadview, Kamloops, North Bend, Revelstoke, Field
19 and Ignace.

20 In other words, there was a change in
21 tonnage. In some of these, they have shown them as both
22 loaded and empty. In another case, in one direction only.
23 What this means is that because of the way they have
24 developed their cost switching, they have a basic figure,
25 and they have added to it a tonnage adjustment factor
26 at the yard specified.

27 Q. Would that be a proper explanation of
28 your method, Mr. Banks?

29 A. I think in general terms, yes, it is a
30 proper description, in general, of what we did at



1

2 Revelstoke and at Kenora.

3

4 But, adverting now to the three yards you
5 asked me to look up for intermediate sized, medium sized
6 yards, we used Saskatoon, Medicine Hat and Kenora.

6

7 Q. You are reading from the Canadian
8 Pacific's study?

8

9 A. I am. I am reading from your exhibit
10 No. 59, because we used the same yards, and used them in
11 the same way that you did with the adjustments that we
12 have described in our text.

12

13 Q. Will you pardon me for just a moment?

13

14 A. I'm sorry. May I continue, sir?
15 There is some confusion here, because C.P.R. made a
16 different set of studies before exhibit 132, and another
17 set that they applied in exhibit 132, and the yards I
18 just gave you were the pre-132 yards. We had to adjust
19 our numbers because C.P.R. did, I am told that Swift
20 Current replaced Medicine Hat as one of the three medium
21 yards which we re-studied for use in exhibit 132. So,
22 the three we used, identical with the three C.P.R. used
23 in the final statement of "the cost" were: Saskatoon,
24 Kenora, and Swift Current.

24

25 MR. MAURO: That is post-132?

25

26 THE WITNESS: Yes.

26

27 I beg your pardon. Kenora, Revelstoke
28 and Swift Current. The three yards were: Kenora,
29 Revelstoke and Swift Current, those being the three
30 yards at which special studies were made by the C.P.R.
as the result, in part, I believe, of suggestions we made



1
2 as to possible improvements that they could make in the
3 pre-132 costs.

4 Of course, what happened there was that
5 when they went back to Kenora to make their second yard
6 study, at that point they unfortunately overlooked the
7 fact that there was 20 inches of snow on the ground at
8 the time, so the yard engine minutes that appear in the
9 study now are inflated to the extent of having in them
10 the rather slow working procedures which necessarily
11 follow from the fact that a man is not sure of his footing.
12 The C.P.R. has, however, agreed that this is probably an
13 over-statement of the cost. So, the three yards that we
14 are talking about --

15 Q. Mr. Banks --

16 A. -- are Kenora, Revelstoke and Swift
17 Current.

18 Q. Mr. Banks, I do not know why you feel
19 it necessary to bring in certain things. This is just a
20 little knack that you have, that you put 6 or 7 things
21 in. We will answer your suggestion in rebuttal evidence
22 about the winter switching, and this is in accordance
23 with what I thought the Commission wished me to do.
24 However, if you want me to cross-examine you on winter
25 switching, I will be glad to do so.

26 MR. COOPER: Mr. Chairman, my friend Mr.
27 Sinclair is referring to the memorandum on winter
28 switching which it is understood will form a part of
29 the rebuttal evidence, if the C.P.R. will see fit to put
30 the matter in on winter switching. I would suggest that



1
2 that arrangement be left, as it has already been made,
3 and that we not get into the matter at this time.

4 THE CHAIRMAN: We so rule.

5 MR. SINCLAIR: Q. Now, Mr. Banks, in
6 regard to the way in which you did intermediate switching,
7 what you did was not the same as Canadian Pacific, because
8 by using a tonnage change factor you, by taking Kenora as
9 a base and Revelstoke as a base, gave undue weight to
10 the relationships between non-tonnage adjustments and
11 caboose and cripple hops, I suggest to you, and that you
12 cannot on the data that you have bring it into balance?

13 A. Well, Mr. Sinclair, I simply say that
14 from the way you have framed the question a person who
15 has not looked at this information would gather the
16 impression that we have performed some statistical
17 manipulation which resulted in a distortion of the
18 numbers, and I believe that this would be an unfair
19 conclusion to draw, because we did not do anything but
20 this, gentlemen: we looked at the T-1 yard conductor's
21 report at Revelstoke and at Kenora. We looked at what
22 those reports showed and we drew off some numbers, and
23 while we were doing this Mr. H.G. McGinn was sitting right
24 with us. He saw what numbers we drew off. We used
25 C.P.R.'s data, and we discussed with Mr. McGinn the
26 function of these yards, and he gave us to understand
27 that the major function that these intermediate yards
28 which have just been named by Mr. Sinclair was, in so far
29 as grain was concerned, the two things I have mentioned:
30 changing vans and also --



1 Q. Mr. Chairman, I am sorry to interrupt
2 but I am instructed that the statement made about
3 what he did with Mr. McGinn is incorrect, that we
4 instructed Mr. McGinn to be there with our record but
5 to let him take off whatever he wanted to take off.
6 We were not passing on the reasonableness of the
7 data he was using or interpreting it.

8 A. Well, this is probably a futile
9 discussion. We had a room one-tenth the size of this
10 and there were three or four people in it and one
11 person could not do anything without the others knowing
12 what he was doing. Mr. McGinn had nothing to do but
13 sit on sentinal duty and he saw what was going on.
14 I do not believe there is any contradiction here. Mr.
15 McGinn did not approve or disapprove of anything, he
16 saw what we did and had an opportunity to advise us
17 as to whether we were being reasonable or unreasonable.
18 We asked him what his major function of this was in
19 so far as freight trains are concerned and he advised
20 to cut out the cripple cars and change the vans.

21 Q. I would say this points up the disabilities
22 of what happens in these matters. This is the third or
23 fourth time this witness has said what he recalls was
24 said by Mr. McGinn when Mr. McGinn was there only to
25 be there when he took off data and not to deal with
26 whether the interpretations being put on by Mr. Banks
27 and his staff were right or wrong. I think it was in
28 accordance with what we agreed to do.

29 A. Let me say one thing here: we came
30 as ignorant foreigners to a complicated industrial



1 operation having much to do with the economy of Canada.
2 We came with no preconceptions and we had to rely on
3 Canadian Pacific personnel to orient us, to give us
4 some idea of what was going on. Once can look at a
5 map of Ontario and not know what function Kenora carries
6 out for the Canadian Pacific; we could guess but not know.
7 We had to make some guesses on the basis of our previous
8 knowledge and translate these into questions directed
9 at various Canadian Pacific persons of whom Jim McGinn
10 was one. We asked questions, perhaps we did not ask
11 everything we should have asked but we did ask in-
12 numerable questions of McGinn as well as others. We
13 relied upon the answers we got and I do not know any
14 other way of doing it.

15 THE CHAIRMAN: You interpreted his answers
16 in making your computations?

17 THE WITNESS: Yes, Mr. Chairman. In any
18 event, this series of yards specified in pages 25 through
19 28 of our presentation which we adjusted what the C.P.
20 did, we did it on the basis I have just described. We
21 started out by using Canadian Pacific basic data and
22 took from this and yard conductors reports the
23 elements of yard switching and the time attached
24 thereto which related to the work that we believe was
25 performed for through grain cars, namely, changing
26 vans and cutting out the cripples. In the case of
27 a series of yards where tonnage adjustment had to be
28 made, we took that into account also.

29 MR. SINCLAIR, Q: Mr. Banks, when you
30 determined what to do with the traffic expenses chargeable



1 you left the basis used by C.P. which was an expense
2 basis and went to a revenue basis; correct?

3 A. Yes.

4 Q. In taking the revenue basis of grain
5 did you take grain revenue at the basis of half a cent
6 per ton mile? That is the revenue basis that is in
7 the accounts of revenues of Canadian Pacific at the
8 present time.

9 A. Is your question properly understood
10 as: did we use the 1958 car grain revenues as the
11 basis for apportioning traffic expenses to grain?

12 Q. Yes?

13 A. Yes, we did.

14 Q. That is on the basis of half a cent
15 per ton per mile?

16 A. That is correct.

17 Q. Would you look at table No. 3 which is
18 at the back of your document, account 372, table 3.
19 Your variable here is thousands of GTMs and I suggest
20 to you the basis is 27 divisions, that is the way
21 it was described by Dr. Borts. In other words, it
22 excludes the terminal divisions?

23 A. Yes, that is correct.

24 Q. So that your figure of unadjusted unit
25 cost which is in column 3, the top line for
26 transportation superintendence and overhead ---

27 A. Are we talking about 0.05644?

28 Q. No, unadjusted unit costs for transportation
29 superintendence and overhead.

30 A. 0.02442.



1 Q. No, unadjusted unit cost for transportation
2 superintendence and overhead?

3 A. I suggest it is 0.02442.

4 Q. Well then, the next step, you made an
5 adjustment factor to that and got your adjusted unit
6 cost?

7 A. Yes.

8 Q. Which is 0.04390?

9 A. Yes.

10 Q. And you multiplied for account 372 the
11 unadjusted unit cost of 0.05644 by 0.04390 to arrive
12 at 0.00248 for superintendence unit costs?

13 A. Well, in this particular case you
14 have brought our attention to what was an additional
15 adjustment that had to be made because the complete
16 details of it are contained in a worksheet that I
17 believe we have made available or if we have not we
18 can do so. When Canadian Pacific made its computations
19 from which ours departed they did, as you suggest, use
20 a 27 division basis.

21 Q. Who did?

22 A. Canadian Pacific.

23 Q. I am suggesting you did.

24 A. We did it because we only had data for
25 27 divisions and consequently we had to use what we
26 had but we recognized the accounts of dispatching and
27 station employees expense and consequently the
28 adjustment factor which is found in column 2 of our
29 table No. 2, namely 1.44182 reflects the fact that
30 we picked up the dispatching and station employee



1 expense at the four terminal divisions in our cost
2 computation and allocated a share of them to grain.
3 Incidentally, that is something that C.P.R. did not
4 do. This had the effect of increasing our costs to
5 estimate for grain.

6 Q. I suggest to you, Mr. Banks, that if
7 you had worked on a 31 division basis rather than a
8 27 division basis you would have automatically developed
9 the factor for transportation applicable to superintendence
10 and overhead chargeable to terminal.

11 A. I fully agree with you and the reason we
12 did not do it was because we did not have this account
13 for a four terminal division. We could only work with
14 the information you made available to us.

15 Q. You believe you have picked up the
16 dispatching and station employees expenses at the
17 terminal divisions through the factor that you apply
18 of 0.04390, is that correct?

19 A. No, through the adjustment factor 1.44182
20 in this one particular instance.

21 Q. In this one particular instance?

22 A. Yes, sir.

23 Q. And that factor reflects in the 27 divisions
24 shown to what 31, in your judgment, shows?

25 A. That is right.

26 Q. Now, looking at table No. 9 near the
27 bottom of that table you show permissive earnings at
28 5.587 per cent; that is a gross figure including
29 income tax?

30 A. Yes.



1 Q. When did you receive that figure from
2 Dr. Ulmer? I presume you got that figure from Dr.
3 Ulmer.

4 A. No, we computed the figure ourselves
5 after Dr. Ulmer told us what in his judgment would
6 be an appropriate permissive level of earnings for
7 the property. From that point on this was a very
8 simple computation.

9 Q. Just a minute, Mr. Banks, what I asked
10 you was, when did Dr. Ulmer give you the basis for
11 that figure?

12 A. Oh, I do not know the exact date.

13 Q. Well, give me the month, that is good
14 enough or even within two months.

15 A. Well, it was in the summer.

16 Q. Was it July or August of 1960?

17 A. My recollection it was late summer, a
18 little after Labour Day.

19 Q. It was in September or late August of
20 1960?

21 A. That is correct.

22 Q. And Dr. Ulmer gave you the basis for
23 you to develop this figure as soon as he had completed
24 his study?

25 A. Yes.

26 Q. Now, what you did was then use that
27 as a factor and develop what you considered to be ---

28 THE CHAIRMAN: Just for the record, who is
29 Dr. Ulmer?

30 MR. SINCLAIR: He is the man who appeared on



1 behalf of the provinces of Manitoba and Alberta on
2 permissive level of earnings for Canadian Pacific.

3 MR. FRAWLEY: Dr. elmer J. Ulmer is the
4 professor of Public Finance of an American university
5 who came before the Commission and gave evidence with
6 relation to the cost of money.

7 MR. SINCLAIR: Well, I answered you the way
8 I believe he gave his evidence.

9 MR. FRAWLEY: That is obviously why I made
10 my remarks. In any event, we have identified him
11 now, surely, cost of money -- permissive level of
12 earnings.

13 THE CHAIRMAN: That is all we wanted.

14 MR. SINCLAIR, Q: You developed a cost here,
15 a system cost of 5.3 million dollars being capital
16 cost of servicing this investment that you were going
17 to charge a fraction of to grain.

18 A. It was not a capital cost, it is a
19 permissive earnings cost.

20 Q. Thank you, Mr. Banks, in the light of
21 what your counsel just said. I suggest to you that
22 in doing what you did you applied only the western
23 factor to arrive at that portion chargeable to grain?

24 A. No sir, this number that you are talking
25 about relates to west track miles, is that the basis
26 for your comment?

27 Q. Yes?

28 A. This is a number which stems, I believe,
29 from our regression analysis and if you will wait just
30 one moment I will dig out our worksheet.



1 Q. Just to hurry this up a bit let me
2 ask you and see if you agree with this: what you did
3 was take variable costs of grain to variable costs
4 of freight traffic system to develop your factor.
5 I am suggesting to you that what you should have done
6 on the basis of your computation is variable cost
7 grain, variable cost freight traffic in western Canada
8 and a much larger proportion of grain to total traffic
9 in western Canada than on the system, the difference
10 being between 25 overall and 40 overall, in that kind
11 of a ratio you have by not applying the same basis
12 in your computation understated substantially the cost
13 that would be chargeable to grain.

14 A. Well, Mr. Sinclair, that is at least
15 to me a complicated statement that you have just made.
16 I do not know whether it is true or not and I would
17 have to look at it.

18 Q. If you find it is right all you have
19 to do is send me a letter and send a copy to the
20 Secretary of the Commission.

21 A. If I find I agree I will send a letter.

22 MR. MAURO: You will first check with your
23 counsel.

24 MR. SINCLAIR, Q: Very well, just don't
25 bother.

26 Now, just one or two more points that I
27 wish to deal with here, a small point, but I would
28 like to see if you and I are in agreement with it.
29 Under the usual costing procedures as used in the
30 United States, investment in freight cars are developed



1 on car days; do you agree with that?

2 A. Yes.

3 Q. Now, in respect to car days, Mr. Banks,
4 I think we agreed yesterday that in transit time of
5 grain because of a number of factors ^{it} is lower, such
6 as holding out for congestion, holding out for grades, it
7 is slower than the average of freight traffic. There
8 is another addition, I suggest to you, that in the
9 proportion of grain moving over branch lines as
10 compared to the average of all freight traffic, the
11 branch lines being slower than the main line time,
12 that this would then have in transit time on grain
13 higher than other traffic: we can agree on that?

14 A. On the average, yes.

15 Q. Now, Mr. Banks, in the Canadian Pacific
16 method whereby car days and idle car days were
17 developed separately, you suggested in your criticism,
18 as I interpret it, that the result of the method
19 followed by Canadian Pacific is to overstate the car
20 day account. I am not clear as to the basis for
21 that criticism so would you please let me know what
22 it is based on.

23 A. It is based on several things and one
24 of them is the assumption that idle time on grain
25 boxcars is the same as the idle time for all cars.
26 Mr. Stenason made this statement at the cost
27 conference and I have not looked at any of the numbers
28 involved but it defies, it does not pass the K test
29 for the idle car time that all grain boxcars operate
30 the same as the idle time on a hopper car, a gondola



1 car, or a flat car for piggy-back service. It defies
2 common sense yet Mr. Stenason says that we have
3 drawn a three hundred car sub sample of Canadian
4 Pacific cost consisting in half part of grain boxcars,
5 90 other boxcars not devoted to grain and the balance
6 a sprinkling of cars of various sizes, shapes, patterns
7 and uses and they all have the same idle ratio. I
8 say that Canadian Pacific's position defies common
9 sense.



1 Q. Do you know what percentage of the
2 total freight car fleet of Canadian Pacific is a boxcar
3 fleet?

4 A. It is a very high proportion, I am sure.

5 Q. Yes, and when you are working on an
6 average you could have some below and some above, and
7 with boxcars swinging the bias in the average, coming
8 from a railroad in the United States, for instance, the
9 Chesapeake and Ohio, you might be surprised -- or the
10 New York Central?

11 A. I am not sure what you mean.

12 Q. I am suggesting that the operation in
13 swing of boxcars with the Canadian Pacific can be
14 very different from what it would be on the New York
15 Central?

16 A. I don't know what you mean by the word
17 "swing" used in this context.

18 Q. That the actual idle days in the cycle
19 of boxcars on the Canadian Pacific can have a different
20 pattern than you would find on the New York Central?

21 A. Yes, I am sure that it can and does.

22 Q. And the proportion of boxcars to total
23 freight cars on Canadian Pacific has a different
24 relationship than you would find, for instance, on the
25 New York Central?

26 A. Yes, undoubtedly, but nonetheless
27 Canadian Pacific has certainly made enormous efforts
28 to measure things with precision, and, as you said to
29 me before, if two different factors coincided the way
30 I suggested they did, this was sheer happenstance. I



1 say to you now if it is that grain boxcars have exactly
2 the same idle ratios as the small percentage of hoppers
3 and flats and refrigerator cars on the C.P.R.'s
4 fleet, that is very interesting. To me it means another
5 case of happenstance.

6 Q. I suggest to you that what basically
7 your criticism is on this matter is that you have
8 some doubts about it, and you have suggested, I take
9 it, that the ICC method, or what may be termed the
10 conventional method of the car day account, in
11 developing car days attributable to study traffic,
12 be used, and would you be satisfied if this was done
13 and applied as a test against the C.P.R. basis?

14 A. Let me say this, sir: this is a
15 complicated matter. One could use the ICC data and
16 apply them to C.P.R.'s operation and, in fact, C.P.R.
17 and ourselves both did this to some extent. However,
18 the problem is not solved that easily because as soon
19 as we begin adjusting any of these factors to reflect
20 the special studies C.P.R. has made we have got to
21 adjust other factors.

22 Gentlemen of the Commission, I don't know
23 if you are familiar with rail form A, but this is one
24 out of about 45 pages, and as soon as you start to
25 adjust any number, or almost any number, in this
26 group it has an impact on many of the pages in this
27 form, and if C.P.R. is going to do this, we say that
28 whether or not the results would be valid would
29 depend upon which numbers were adjusted and whether
30 other required adjustments were also made.



1 To answer Mr. Sinclair's question, I don't
2 know whether or not to do that would resolve this
3 issue.

4 Q. What I am suggesting is that there is
5 a procedure used in the United States. It is not as
6 detailed a procedure as Canadian Pacific did in this
7 case. What I am suggesting to you is, taking the
8 basic procedure of the Interstate Commerce Commission
9 and applying it as a test, would you be satisfied with
10 that?

11 A. The basic procedure of the ICC?

12 Q. On car days?

13 A. Well, I don't know what you mean by
14 "the basic procedure of the ICC".

15 Q. As set out in rail form A?

16 A. You mean make a rail form A computation
17 of car days?

18 Q. That is right.

19 A. Well, this is what I was dealing with
20 in this matter I have just mentioned to the gentlemen
21 of the Commission. Within the framework of what you
22 have labelled "rail form A", there are many different
23 procedures possible, and the railroads in the United
24 States and the shippers and the regulatory agencies
25 use rail form A quite commonly, but they reach quite
26 different results from its use. All I am suggesting
27 is that if you were to use it it might satisfy us,
28 as you call it. I don't know whether it would or not.
29 The chances are it would not because there is a
30 tremendous and continuing controversy over the answers



1 one gets from using it.

2 Q. Let me suggest that under rail form A
3 you say there are alternative procedures available:
4 would it satisfy you to use these procedures as a
5 test?

6 A. Certain of such procedures would have
7 to be used, yes; but that is not the only criticism
8 I have. You asked me my criticisms: do you want me to
9 mention the others?

10 Q. No, I just want to try to get ---

11 A. There are numerous others.

12 Q. Pardon me?

13 A. There are other criticisms which I could
14 make of C.P.R.'s car day procedures.

15 Q. You have set them out in your statement
16 to the Commission?

17 A. Not very well, I fear, to judge from
18 some of the exploration of this matter at the cost
19 conference and subsequently.

20 Q. Well, we will have to deal with those
21 when the time comes.

22 Will you agree it is a necessary part of
23 railway operations that as trains move through terminals
24 they have to be checked, inspected for draft gear,
25 running gear, and matters of that kind -- cracked
26 wheels, shells?

27 A. Yes, I agree with this.

28 Q. And that these checks and inspections
29 of running and draft gear are a cost associated with
30 the traffic?



1 A. Yes.

2 Q. Directly?

3 A. Yes.

4 Q. In your suggestions as set out in your
5 cost presentation to this Commission, what allowance
6 did you make for costs charged to grain for inspection?

7 A. It was included as an inherent and
8 integrated portion of the unit cost coefficient that
9 we have derived for account 314. We did it,
10 incidentally, in our cost study exactly the way C.P.R.
11 did it on the pre-132 basis.

12 Q. I suggest to you that the method you
13 followed was partially an ICC basis, but that you made
14 an error in this regard, that what the ICC does is
15 a 70/30 split, but before doing that they take off
16 the 16 per cent inspection charge and apply that to
17 the study traffic? You didn't do that, but you took
18 a 70/30 all the way through?

19 A. This 16 per cent ---

20 Q. Would you agree?

21 A. Yes, I agree, but I suggest to you that
22 the 16 per cent figure, as we state at the top of page
23 15, is a pretty weak figure.

24 Q. Whatever the strength or weakness of the
25 figure, it is one that is used in the United States,
26 and you are suggesting ---

27 A. I am suggesting ---

28 Q. You are suggesting that you are not
29 satisfied with that being applicable, because I think
30 it arises out of an intensive study in 1947? That is



1 what you have just said -- it is done a long time ago?

2 A. A long time ago in a different area.
3 We are making a Canadian study, not a U.S. study. In
4 this particular matter this 16 per cent is, all
5 fecitiousness aside, an important cost distinction
6 between the U.S. and Canada because it is based on a
7 large number of interchanges resulting from the fact
8 our railway system is not essential to properties
9 with half a dozen others of a minor nature, and
10 consequently in view of the nature of freight car
11 repairs and billing and so on, it is a point in the
12 United States on every railway to charge these on-
13 coming freight cars as they are received at the
14 interchange. In the United States I suggest inspection
15 costs are a more significant component of cost than
16 they are in Canada. If you were to ask me, would I
17 do it the way you have done it, I would still say I
18 don't think we do it that way.

19 Q. In Canada because of the weather
20 conditions and because of sugar snow drifting and other
21 matters of climate, with cold weather, for example,
22 and with the problems arising from hot boxes and other
23 gear problems -- draft gear and running gear -- that
24 the need for inspections on the Canadian railways
25 is greater than it is in the United States?

26 A. You may be quite right and I would not
27 argue this point, but what I would say is that
28 it may be not at 16 per cent; it may be 18 per cent,
29 or 20 or 4 or 12. We don't know. If your account 314
30 is such a good basis for developing costs, we ought



1 to get the inspection broken out of it in a hurry.

2 I would not resort to something done in the United States
3 fifteen or seventeen years ago.

4 Q. By taking the 16 per cent figure we
5 have likely been conservative with the C.P.R. cost
6 study?

7 A. Well, that is your position. We don't
8 know because we have no way of checking what the
9 inspection element is.

10 MR. SINCLAIR: Thank you very much, Mr.
11 Banks.

12 MR. McDONALD: I have no questions, Mr.
13 Chairman.

14 BY COMMISSIONER GOBEIL:

15 Q. I have only one point: you discussed
16 at length with Mr. Sinclair the value of figures in
17 a cost analysis of the railways, and you mentioned
18 that in view of the many factors under consideration,
19 which may be technical or geographic, one could get
20 only an estimate, and not the true cost figures, and
21 you also added that during the cost analysis they
22 made a very comprehensive study and you could come up
23 with quite different numbers?

24 A. Yes, sir.

25 Q. But how different can these numbers be
26 before they are significantly different -- before one
27 can begin to express doubt about one of the two?

28 A. Well, in the United States where most
29 of these cost analyses are, as you have been told,
30 based on this rail form A procedure, we have differences



1 of only a minor fraction of a cent which have a very
2 significant impact on whether the traffic moves by
3 rail or by truck. I have such an example in this
4 Commerce study which I can show you now or later, as
5 you prefer.

6 But, to answer your question in as brief a
7 way as I can, the difference becomes significant in
8 very small magnitudes sometimes where we are costing
9 a very small element of traffic and doing it in a
10 procedure where a mill or a tenth part of a cent may
11 make all the difference in the world to the carrier.

12 Q. In the case of grain movement, though?

13 A. Well, I would think that there is a
14 significant difference between the answer that we
15 got and the answer that Canadian Pacific got, on its
16 face. We have \$15 million or \$17 million less
17 cost by our estimate than by theirs, and if your
18 question means, how many millions of dollars apart
19 would we have to be before it became significant,
20 I would think anything -- in the total framework of
21 this situation, anything in excess of \$1 million would
22 be significant.

23 COMMISSIONER GOBEIL: Thank you.

24 MR. FRAWLEY: We have no re-examination.

25 THE CHAIRMAN: Well, thank you, Mr. Banks.

26 THE WITNESS: Thank you, sir.
27
28
29
30



1
2 MR. SINCLAIR: Mr. Chairman, there are a
3 number of matters I would like to get onto the record.
4 These are questions that have been raised from time to
5 time during the proceedings, and I think this would be
6 the easier way to handle it.

7 At volume 96, page 16318, Commissioner Mann
8 asked me if I could look up and let him have a list of
9 citations before the Board under sections 341 and 342
10 after the index in volume 48 of the C.R.T.C.'s. I said
11 it was not difficult, and I have done so.

12 The note I have is that because of the
13 fact that most of the applications are first made to the
14 freight traffic departments of the railways, some of
15 the bases have been resolved and the cases are those of
16 which resolution with other than the Board's intervention
17 were not possible.

18 Normetal Mining Corporation Limited et al
19 v. C.N.R., 50 C.R.T.C. 203. This was taken to the Supreme
20 Court of Canada on an application which dismissed the
21 application to appeal from the Board's finding, which
22 can be found in 52 C.R.T.C. 92.

23 Ontario Mining Association, versus C.N.R.
24 and C.P.R., 58 C.R.T.C. 17.

25 Alberta Central Subdivision and C.N.R.
26 Brazeau Subdivision, 54 C.R.T.C. 261.

27 West Lorne Lumber Company Limited versus
28 C.P.R. et al 70 C.R.T.C. 23.

29 Acme Shingle & Lumber Company Limited et
30 al versus C.P.R. and B.C. Electric Railway Company Limited



1
2 49 J.O.R. & R. 437. I have given the J.O.R. & R. there
3 because when I wrote this down it was not yet in the
4 C.R.T.C.'s.

5 The next point, Mr. Chairman, arose in
6 volume 119, the 16th of November, during Mr. Edsforth's
7 re-examination at page 19754. I have dealt with this
8 with Mr. Mauro by correspondence.

9 Volume 118, the 14th of November, 1960,
10 during Mr. Mauro's cross-examination of Mr. Edsforth,
11 having to do with interchanges, and Mr. Edsforth has given
12 me a letter, and I think that letter could be taken into
13 the record as read.

14 THE CHAIRMAN: Agreed.

15 MR. SINCLAIR:

16 I.D. Sinclair, Esq.,
17 Vice-President, Law.

18 Please refer to daily transcript, Royal
19 Commission on Transportation, Volume No.
20 118, November 14th, 1960.

21 On page 19561 Mr. Mauro asked the
22 following question:-

23 Q. Mr. Edsforth, regarding this matter
24 of official interchanges between eastern
25 and western Canada -- or, within eastern
26 Canada and within western Canada -- I wonder
27 if you could tell the Board how many official
28 interchanges there are in western Canada?

29 A. I think forty-two is the number you put
30 on the record, and I have no quarrel with



1
2 that.

3 In answer to Mr. Mauro's question, there
4 are in western Canada forty-two official
5 carload interchanges and in addition, four
6 joint terminals. This information is
7 contained in Canadian Freight Association
8 Tariff No. 209.

9 Also on Page 19561 the following
10 exchange took place:-

11 Q. Could you tell us how many official
12 interchanges there are in eastern Canada?

13 A. I could not, offhand; but I can very
14 easily develop that information.

15 Q. I will give you a figure, and you can
16 check it. One hundred and ten in eastern
17 Canada, between Canadian Pacific and the
18 Canadian National Railways and I understand
19 there are in Montreal alone six official
20 interchanges, and in Toronto alone five
21 official interchanges. A total of 110?

22 A. I will accept your figures subject to
23 check, Mr. Mauro.

24 Our check of Canadian Freight
25 Association Tariff No. 28 shows that there
26 are in eastern Canada seventy-three official
27 carload interchanges between Canadian Pacific
28 and the Canadian National Railways. There
29 are five official interchanges in Toronto
30 but only three in Montreal, i.e., Hochelaga,



1
2 Que. (CP), Jacques Cartier Jct., Que. and
3 St. Luc, Que. Mr. Mauro may have included
4 Bonaventure Station (CN) and Place Viger
5 (CP), which are shown as interchanges for
6 less carload traffic handled in cartage
7 service and Moreau Street Station (CN)
8 on carload traffic which is the same as
9 Hochelaga, Que.

10 We are unable to check the 110
11 interchanges between the Canadian Pacific,
12 and the Canadian National Railways mentioned
13 by Mr. Mauro and it may be that he has
14 included interchanges between Canadian
15 Pacific and other railways and interchanges
16 between Canadian National Railways and
17 Canadian Pacific Railway's subsidiaries."

18 At volume 123, the 23rd of November, 1960,
19 during my cross-examination of Dr. Borts he asked me to
20 provide him with the direct application of his final
21 models which are those from pyramid, and the results from
22 running those models, to show the cost co-efficients
23 that his direct models would develop. This has been
24 done directly to Dr. Borts and to counsel representing
25 Manitoba-Alberta, and copies sent to the Commission
26 staff, being a memorandum dated November 28, 1960. I
27 think they have received that, and rather than put that
28 into the record, we will leave it that way, with your
29 permission, sir.

30 " Now, there is at volume 113, during Mr.



1
2 Mauro's cross-examination of Mr. Emerson, a question
3 raised as to what if anything has developed in respect
4 of statements 8, , 9 and 10, which appear on pages 226
5 and 227 of the Turgeon Commission Report and, if no action
6 has been taken, the reasons therefor. That is my
7 paraphrasing of Mr. Mauro's questioning of Mr. Emerson
8 at page 18724. It finished up by my saying on behalf of
9 Canadian Pacific we would have a look and that Mr. Emerson
10 would give me a report. This he has now done, and I will
11 read it:

12 "I am advised by Mr. R.C. Barnstead, the
13 Canadian Pacific representative on the
14 Joint Cooperative Committee, that he has
15 examined the files with regard to each of
16 the projects listed in Statements 8, 9 and
17 10, and there have been no further
18 developments since the Turgeon Commission
19 Report.

20 Generally speaking, these statements
21 deal with such matters as line abandonment,
22 joint switching, passenger and commuter
23 services, consolidation of telegraph
24 offices, and consolidation of Pacific Coast
25 steamship fleets.

26 Although there has been no action in
27 regard to these items within the terms of
28 the C.N.-C.P. Act, a great deal has been
29 accomplished by the two railways through
30 cooperative effort. An outline of activities



1
2 in some of these areas are:

3 Line Abandonments: Both companies, jointly
4 and independently, have continued the study
5 of line abandonments and where there is
6 justification action has been and is being
7 taken. Activity in this area is referred
8 to in Mr. Emerson's direct evidence at pages
9 18244-5, Volume 109, where he deals with
10 possible amalgamation of branch lines and
11 also gives details of Canadian Pacific
12 post-war line abandonments.

13 Joint Switching: - The substantial number
14 of joint switching agreements which have
15 been entered into by the railways
16 voluntarily in the post-war period is
17 referred to at Page 18234, Volume 109, and
18 bears evidence of the railways' willingness
19 to cooperate where joint effort is economic.

20 Passenger Services: - The changes in
21 passenger transportation since World War II,
22 of course, have largely invalidated any
23 studies carried out a decade ago dealing
24 with this field, and today's conditions
25 require a very different treatment. The
26 manner in which Canadian Pacific has dealt
27 with the passenger train problem is
28 fully outlined in Mr. Emerson's direct
29 evidence, Pages 18251 to 18274, Volume 109.

30 Telegraph Services:- Four jointly operated



1
2 telegraph branch offices have been established
3 since the Turgeon Commission and the
4 railways have also effected reciprocal closing
5 of ten competing but uneconomical branch
6 offices in larger cities, which again indicates
7 the acceptance by the railways of cooperative
8 measures where they are economically justified.

9 Commuter Services: - Canadian National has
10 now withdrawn from the main commuter service,
11 i.e., Montreal-Vaudreuil and, as indicated
12 at Pages 18273-4, Volume 109, Canadian
13 Pacific does not now feel commuter service
14 will be a financial burden.

15 Steamship Services: - Except for a summer
16 season Alaska cruise, Canadian National does
17 not operate a steamship service on the
18 Pacific Coast. However, in 1952 Canadian
19 National ticket offices were supplied with
20 coupons that are honoured on Canadian Pacific
21 ships between Vancouver-Victoria-Nanaimo.

22 Express Services: - The handling of
23 merchandise traffic has undergone many
24 changes in the post-war period and
25 Canadian Pacific plans in this regard are
26 fully outlined in Mr. Emerson's evidence
27 under the heading 'Less Than Carload Freight
28 Traffic - Merchandise Services', Pages
29 18211-19 (Volume 109).

30 The foregoing will illustrate that



1
2 many of the possibilities of joint
3 cooperative measures which were considered
4 under the C.N.-C.P. Act have been dealt
5 with in the course of normal business by
6 the two companies during the post-war
7 period, that many items not previously
8 considered have also been dealt with, and
9 that this is a continuing process in the day
10 to day operation of both railways. A number
11 of the cooperative projects adopted between
12 Canadian National and Canadian Pacific since
13 the Turgeon Commission Report were set out
14 in Mr. Emerson's direct evidence, Pages
15 18233-36, Volume 109. A statement giving
16 further details of these joint measures is
17 attached."

18 A further question by Mr. Mauro, Volume 113,
19 at pages 18734 and 18735: he asked would Mr. Emerson
20 look at some thousand net ton trains between points
21 for commodities other than concentrates and other than
22 coal, and Mr. Emerson mentioned coal and concentrates,
23 and then Mr. Mauro asked him for others than those, and
24 Mr. Emerson said he would see what he could do. He has
25 now informed me to tell the Commission he has looked
26 at this, and the traffic department have suggested from
27 their analysis of the records, which is not complete,
28 and they have picked out such movements as:
29
30



<u>Commodity</u>	<u>From</u>	<u>To</u>
Iron Ore (From same branch)	Wyman, Quebec	Hamilton, Ont.
Sand and Gravel	Shawville, Que.	Ottawa, Ont.
Sand and Gravel	Paris, Ont.	Toronto, Ont.
Coal	Little Current, Ont.	Clara Belle, Ont.
Coal	" "	Espanola, Ont.
Coal	" "	Spragge, Ont.
Pulpwood	Ramsay, Ont.	Espanola, Ont.
Sand and Gravel	St. Gabriel, Que.	Montreal, Que.
Crushed Stone	Bedford, Que.	Shawinigan, Que.
Crude Petroleum	Drywood, Alta.	Calgary, Alta.
Sand and Gravel	Moose Nose Pit, Man.	Winnipeg, Man.
Coal	Bienfait, Sask.	Winnipeg, Man.

The amount of traffic in tonnages I would be prepared to give to the Commission, but in view of the fact Canadian National are here, and these are Canadian Pacific movements, I would rather give the tonnages in the year 1959.

THE CHAIRMAN: These are trade secrets.

MR. SINCLAIR: These are trade secrets.

I can say each of the ones I have mentioned involved movements, without exception, over 4,000 carloads.

There is one matter Mr. Mann asked me to do, and that had to do with the relationship of the Board's Waybill Analysis in regard to checking the sample and reflecting that as a percentage on the amount of revenue covered by all that traffic. We have spent some



1
2 time on this and we find the computation rather difficult
3 because of the way the material is supplied. All I can
4 do is indicate this to you, that we find the percentage
5 of traffic ratio to be, in 1959, that was supposed to
6 represent 1%, to be .899, and in 1958, we found it was
7 1.2, and from this we concluded that we must be having
8 some difficulties in it because the swing in a year
9 -- well, we were not satisfied with it. We started to
10 take another look at the data and I must say we are
11 not in a position to answer your question with what we
12 consider a proper basis. There are troubles in it in
13 trying to relate it in the way I suggested to you during
14 our discussion, when it seemed to be easy. However,
15 we have found by experience it represents problems.

16 COMMISSIONER MANN: I think I said at
17 the time not to go to too much trouble.

18 MR. SINCLAIR: You did sir, but it was
19 a thought that arose out of the discussion and it struck
20 us as being a very good thing to have, and so we have
21 spent some time on it. I think we will have to develop
22 other control procedures, and we are intending to do so.

23 COMMISSIONER MANN: Thank you for the
24 effort.

25 MR. SINCLAIR: The only reason I know I
26 still have things to do is because Mr. Price reminds
27 me, and this point now is for Mr. Frawley, so I had
28 better not forget it. At page 12173 of the transcript,
29 Volume 69, I said, "In light of the charter exemption
30 on the main line, as defined in the statutes, and in



1
2 light of the fixed assessments that are involved in
3 certain of the western provinces ..."

4 I had overlooked this. It was brought
5 up at the cost conference; Mr. Stenason brought it to
6 my attention, and I undertook to take a look at it,
7 and we will make a statement about it later. I am
8 sorry about this because it should have been looked at.
9 We will make a statement about it in our rebuttal
10 evidence.

11 This is all I think we have outstanding
12 on the record. I do know Mr. Price and myself will
13 certainly appreciate it if anybody has given us questions
14 we undertook to answer which we have overlooked, if they
15 will please let us know and we will do our best to meet
16 them.

17 MR. COOPER: Mr. Chairman and gentlemen,
18 the Commission has dealt with the questions of rebuttal
19 evidence and summation and argument. The Commission
20 has decided that any rebuttal evidence the railways wish
21 to call on the question of the cost of handling grain
22 will be submitted in writing on or before January 21st,
23 1961, and taken into the record. Replies to rebuttal
24 evidence will be submitted in writing on or before
25 February 9th, 1961, and will also be taken into the
26 record. In accordance with the ruling of the Commission
27 made on November 14th, 1960, and appearing in Volume 118
28 of the transcript at pages 19598 and 9 summations and
29 arguments in writing in 25 copies must be filed with the
30 Commission on or before February 10th, 1961, and will



1
2 appear in the transcript.

3 I think I am correct, Mr. Chairman, in
4 adding that this, therefore, concludes the public
5 hearings of this Commission.

6 MR. SINCLAIR: Mr. Chairman, in view of
7 the fact that the evidence of the railways on rebuttal
8 will not be formally presented in public session I
9 would like to say on behalf of Canadian Pacific that we
10 have taken a great deal of your time. We certainly
11 appreciate the hearing this Commission has extended to
12 Canadian Pacific and to its officers. We have had a
13 strenuous time on occasions in keeping up with you,
14 but we do realize that this matter of transportation
15 is a strenuous business and that there is a necessity
16 for having all the aspects of it considered. We, of
17 course, appreciate the courtesies you have extended to
18 each one of our witnesses. We have received, I should
19 say, complete cooperation from my friends when we were
20 in difficulty as to the day or hour they could appear,
21 and we appreciate that. We have found our relations
22 to be excellent with counsel for your Commission. We
23 think the Commission was very fortunate in the calibre
24 of counsel they had made available to them, and this
25 has undoubtedly assisted in the work of the Commission,
26 in our view. The Commission technical staff has been
27 very helpful in recognizing that we are trying to meet
28 their demands. We have not met them all as quickly on
29 occasion as I am sure they would have liked us to do,
30 but they have been understanding and cooperative, and we



1
2 have and will continue to try to meet any requests they
3 may make upon us.

4 On behalf of myself, Mr. Chairman, it
5 has been a real pleasure to appear on behalf of the
6 Company before you and before this Commission. I do
7 thank you for the courtesies that you have extended to
8 me personally, and I hope that the Commission in closing
9 its public hearings will enjoy reading the evidence that
10 we were able to bring before you. Thank you very much.

11 MR. McDONALD: Mr. Chairman and
12 Commissioners, on behalf of the Canadian National I
13 wish to extend to you our sincere appreciation of the
14 attention you gave to the submissions which we had to
15 make, and I am sure that you will, after reviewing them
16 again, have no difficulty writing your reports. It has
17 been a great pleasure to me to have the opportunity
18 to appear before you. This is my first Royal Commission,
19 and I hope the next one, if there is a next one, does
20 not last so long.

21 I wish to thank the Commission staff for
22 their assistance in various problems that have come before
23 you. We wish to cooperate with them, and if we can give them
24 any further information we will be glad to do so.

25 I would like to refer to Commission
26 Counsel in this case, Mr. A.G. Cooper and Mr. G.S.
27 Cummings: they have both been very cooperative and
28 they have helped us solve a lot of the problems which
29 have come before you.

30 I also wish to thank other counsel for



1
2 their courtesies to me and, last but not least, our
3 reporting staff who have done such an excellent job.
4 Thank you.

5 MR. FRAWLEY: Mr. Chairman and members
6 of the Commission, I presume I should have thought at
7 this time counsel would be addressing themselves to
8 the Commission on the occasion of the conclusion of the
9 public hearings.

10 Alberta certainly has a very, very great
11 and important concern about Canada's freight rate
12 structure. I was counsel for Alberta at the time of the
13 first Turgeon Commission, and we obtained a fairly
14 important measure of relief from our problems. We lost
15 a considerable measure of ground in the second Turgeon
16 Commission, and the situation deteriorated after the
17 second Turgeon Commission, and therefore Alberta welcomed
18 the appointment of this Commission, and particularly its
19 broad terms of reference. I make no excuse for the fact
20 the people of Alberta await with very great interest
21 and concern the deliberations of this Commission.
22 Repeatedly and repeatedly it has been brought to my
23 attention that Alberta has expanded so greatly, and that
24 the economy of Alberta is in such a healthy state that
25 it is idle to be complaining about our freight rate
26 grievances, and we take great exception to that in the
27 province of Alberta. As spokesman for the Alberta
28 government, I have said that many times, but I want to
29 assure the members of the Commission I am not alone;
30 that there are still matters of very serious concern



1
2 in the Canadian freight rate structure.

3 The terms of reference are broad, and
4 Alberta is looking for the removal, through the
5 recommendation of this Commission, of the grievances
6 from which our part of the country suffers.

7 I say in all seriousness that it has been
8 a very, very long and sometimes trying task to attend
9 the many, many sessions of the Commission that I
10 attended on behalf of Alberta.

11 I think there is so much for this
12 Commission to recommend that I do think the deadline
13 date that has been set is not a realistic one. I say
14 that because I sincerely feel that for the kind of report
15 that the people of Alberta, at least, are waiting for
16 and expecting, and the review of the whole freight rate
17 structure, and the many, many aspects of it that have
18 been placed before this Commission -- and I am indeed
19 referring to matters other than the movement of grain
20 to export positions in western Canada -- that the study
21 and time that has been put into presenting these matters
22 to the Commission require a very considerable amount
23 of careful thought before the Commission is able to
24 formulate its conclusions. I venture to suggest that
25 the time limit spoken of for the completion of the report
26 is, as I say, perhaps not realistic.

27 I have nothing more to say than that. My
28 only desire in these few words is to impress again upon
29 the Commission the importance which the people of Alberta
30 attach to the deliberations and the recommendations of
this Commission



1 As to the other very pleasant words that
2 came from my friend Mr. Sinclair and my friend Mr.
3 McDonald, I certainly can join with all of them.
4 I have found my relations with the Commission very,
5 very pleasant. Those of the Commissioners I did not
6 know were very easy to get to know, and I have found
7 my relations with the Commissioners highly acceptable.

8 As to the Commission counsel, all I can do is
9 congratulate the Commission and/or the Governor-
10 General-in-Council upon the very wise selection he made
11 in appointing Mr. Cooper and Mr. Cumming to the
12 Commission. I congratulate the Commission on the
13 selection of its staff -- Mr. Anderson and Major
14 Lafrance and all the other people who have since become
15 associated with them, and I certainly in that regard
16 must mention Dr. Armstrong and Dr. Hay. So, I certainly
17 join in wishing the Commission good health and lots
18 of patience in doing all the work they have to do
19 before this very important report is brought down.

20 MR. BRAZIER: Mr. Chairman, to me it is a
21 very happy occasion to be here at the conclusion of
22 the public hearings of this Commission. From recent
23 reports that I have received from British Columbia
24 I am not sure that any recommendations you may make
25 will have any bearing on the province: I understand
26 the railways are thoroughly washed out, and our means
27 of communication with the rest of Canada are being blocked.

28 Although British Columbia has purposely, I
29 would say, refrained from participating in one of the
30 major items which your Commission has to consider, namely,



1 the grain cost studies, we have appreciated the
2 tremendous efforts the members of the Commission have
3 applied to the task before them. The people of
4 British Columbia will always feel indebted to the
5 Commission and the individual members for the time
6 and effort they have put in on this most important
7 public question. While your public hearings have
8 closed, we know that probably your biggest task still
9 lies ahead of you formulating your report that we
10 all trust and know will be an honest effort to solve
11 one of Canada's most frustrating problems. I think
12 we can say that over the last twenty-five or thirty
13 years, or even more, the railway problem has been
14 a frustrating one for Canada and the Government of
15 Canada.

16 I know all the other members of the
17 Commission will pardon me if I make special reference
18 to the Chairman of the Commission. It has been my
19 pleasure to have worked in this field of endeavour
20 with the Chairman over a long period of time, and I
21 was delighted, and so were the people of British
22 Columbia, when the government saw fit to appoint him
23 Chairman of this Commission. I trust that the task
24 he has undertaken has not proved too onerous and
25 that next year, when the report has been completed,
26 M.A. MacPherson will be back before the Board of
27 Transport Commissioners representing the Province of
28 Saskatchewan in a rate case.

29 I also would like to express my appreciation
30 to Mr. Cooper and Mr. Cumming, my colleague from



1 Vancouver, Commission counsel in this matter. I have
2 found both them and other members of the staff most
3 courteous to us at all times.

4 All I can say is that I trust when the
5 deadline for your report has been reached that every
6 member of the Commission can enjoy a good long holiday.

7 MR. MAURO: Mr. Chairman and Commissioners,
8 I certainly want to join with my learned friends
9 in the words of farewell. It sort of came to me by
10 a roundabout way that when I was first sent down here
11 on a rate case, which seems to be three or four
12 decades ago, but actually is only three years ago,
13 that one had to pretty well put in twelve or thirteen
14 years before he was qualified to join the club of
15 provincial counsel on these rate matters, and after
16 listening to Mr. Sinclair and Mr. Frawley and Mr.
17 Brazier this becomes very apparent as they hearken
18 back to historic commissions before which they
19 appeared. While I cannot lay claim to the term of
20 years, I am satisfied I have the right to claim it
21 now having experienced this Commission, because surely
22 it must give one extra points having gone through
23 the two years since September 1959 in that crowded
24 railway room in the House of Commons. It has been
25 an experience that a young barrister cannot help but
26 appreciate. It has not only been an experience from
27 the legal end of it. I must also lay claim to the
28 health side too: it has cost me 24 lbs. People say
29 I look better, and I must lay claim to the fact
30 the Commission did this for me.



1 I remember Commissioner Gobeil in a moment
2 of, I trust, jocularity stating that probably what
3 was wrong with transport in Canada was that there were
4 too many people from Manitoba mixed up in it. Well,
5 that may be. Manitoba certainly has taken an interest
6 in these transport matters, and particularly before
7 this Commission. We hope that the efforts the Province
8 of Manitoba made may in some small way assist this
9 Commission with the most troublesome problem concerning
10 the Canadian nation today.

11 If I had my way about it, gentlemen, for the
12 effort you have put in, the only award we have in
13 Manitoba is the Order of the Bison; we have a type of
14 pioneer knighthood, and I will certainly strongly
15 recommend to the Premier the Commissioners of this
16 Commission have every right to claim it.

17 I want to thank my learned friends from the
18 railways for their cooperation and their interest in
19 this problem, and it is always worthwhile coming up
20 against a worthwhile adversary, and counsel for the
21 railways are certainly that. I want to thank my
22 friend Mr. Cooper and his assistant counsel for their
23 cooperation in a most difficult task, and to the
24 staff of the Commission and to you again, gentlemen,
25 and to everyone associated with this very important
26 work. I wish to offer my thanks on behalf of the
27 Province of Manitoba for your kind consideration, and
28 give you our very sincere best wishes for the big
29 task now remaining to you.
30



1 MR. COOPER: Mr. Chairman, I should like on
2 behalf of Mr. Cumming and myself to express my most
3 sincere thanks, and I am sure I speak for Mr. Cumming,
4 for the kindly references that have been made to us
5 by counsel here today. I appreciate more than I
6 can say the forbearance of counsel who have been
7 dealing with these matters for a great many years
8 when they suddenly found thrust upon them an unknown from
9 Halifax who had had no previous experience with freight
10 rate matters in his professional career. It may seem
11 strange that a Maritimer should have had no previous
12 experience in freight rate matters, but that was my
13 position when I came to this Commission -- a wonderful
14 opportunity for counsel who had been dealing with these
15 matters for years to sort of combine and say, "Who is
16 this strange man trying to get into our lodge? We
17 will show him; we will make it difficult for him", but
18 counsel did not do that. They were extremely kind to
19 me and gave me assistance in every way possible. The
20 most regrettable feature of the termination of these
21 proceedings this morning is that I will not have the
22 pleasure of close association with those persons --
23 counsel for the railways, for the provinces, for the
24 trucking industry -- for whom I have had over the past
25 few months such a very high regard, and for whom I
26 still have such a very high regard, and feelings of
27 friendship. I hope they are reciprocated. There
28 have been times when it has been difficult to deal
29 with conflicting views of counsel and to endeavour to
30 get some measurement of agreement among them. In fact,



1 it was suggested to me on one occasion that I might,
2 after this job, go out to the Congo and see what I
3 could do there. I suggest that might give me a bit
4 of a rest.

5 However, I do wish to say again that I
6 appreciate most sincerely what has been said this
7 morning, and I am sorry indeed that the close
8 association of which I have spoken has come to an end,
9 I hope, at some time to be renewed.

10 THE CHAIRMAN: Since the preliminary
11 organizational meeting held here in Ottawa on September
12 17th and 18th, 1959 we have travelled across Canada from
13 St. John's, Newfoundland to Victoria, British Columbia.
14 We have had the pleasure of having the Premiers of nine
15 provinces appear before us -- the other was ill --
16 as well as the Presidents of the two great railway
17 systems of this country. The views of all the provinces
18 of Canada, of the great agricultural interests of the
19 west, of those concerned with the problems of
20 transportation in the Atlantic provinces, in central
21 Canada and in British Columbia, of the railways, and of
22 those engaged in the industry of highway transport, have
23 been ably presented to us through carefully prepared
24 and thorough submissions.

25 We appreciate what counsel have said about
26 our own counsel, and we have had great satisfaction
27 in having the good gentlemen, Mr. Cooper and Mr.
28 Cumming, and we have appreciated that.

29 Counsel who have appeared before us have been
30 of great assistance to us in presenting the views and



1 opinions of their clients forcefully, and, I might
2 say, at times almost forceably. We wish to express our
3 thanks to them for their valuable help and cooperation.

4 We deem it appropriate also to place on
5 record our thanks to the secretarial staff of the
6 Commission, to the reporting staff, for their valuable
7 services before and during that period of our work
8 which ends today and to express our confidence in the
9 continuation of their full cooperation and assistance
10 in the work remaining to be done.

11 We thank all counsel for their cooperation,
12 and I should mention particularly that we have had
13 following us from the first day the Canadian Press
14 and not one complaint has been registered by counsel
15 about the reporting by the Canadian Press, which I
16 think is very, very significant as to fair reporting.

17 Gentlemen, we want to thank the Board of
18 Transport for the use of this wonderful room, and we
19 feel Major Lafrance has done a grand job for us here.

20 We are conscious of the very heavy responsibility
21 upon us and we express the hope that in the discharge
22 of that responsibility we may be of some assistance
23 in advancing the development of this great country
24 of ours.

25 All I can say finally is, remembering the
26 months that are ahead, please remember us in your
27 prayers.

28 We now adjourn sine die.

29 --- Adjournment.

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